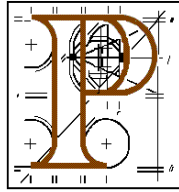


An Bord Pleanála



Inspector's Report

PL06F.245578

Development:

Planning permission is sought for part double, part single storey extension to the rear of an existing dwelling; the provision of a new window to the rear of 2nd storey; associated internal modifications together with all associated site development works at No. 31 The Walk, Robswall, Malahide, County Dublin.

Planning Application

Planning Authority: Fingal County Council
Planning Authority Reg. Ref.: F15B/0172
Applicant: Edward & Amanda Owen
Planning Authority Decision: Grant

Planning Appeal

Appellant: Trish McGovern
Type of Appeal: 3rd Party - V - Grant
Observers: None
Date of Site Inspection: 17th day of November, 2015.
Inspector: Patricia M. Young

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 No. 31 The Walk, the subject appeal site, has a stated site area of 0.0025-hectares and forms part of a recently constructed residential development collectively known as 'Robswall' which is located on the western side of the Coast Road (R106) over 1-kilometer to the south east of Malahide in North County Dublin.
- 1.2 The irregular shaped site contains a three storey modern in design detached dwelling house that is positioned forward of an adjoining two storey semi-detached pair. These properties adjoin the eastern side of the subject property. In addition, the subject property stands in its entirety forward of the front and rear building line of the adjoining terrace group to the west and adjoining the western front boundary of the site forward of this adjoining group is a paved on-street parking area. Forward of the adjoining western terrace group and forward of the aforementioned car parking area there is a detached three storey dwelling house that matches in built form and appearance the subject property.
- 1.3 The appeal site lies to the north of Parkview the main access road serving the 'Robswall' residential scheme and to the rear of the appeal site lies the more established 'Biscayne' residential scheme.

2.0 PROPOSED DEVELOPMENT

- 2.1 Planning permission is sought for part double, part single storey extension to the rear of an existing four bedroom dwelling; the provision of a new window to the rear 2nd storey level elevation and serving bedroom labelled 'Bedroom 1' in the submitted drawings; associated internal modifications together with all associated site development works.
- 2.2 According to the submitted planning application form the stated gross floor area of existing buildings on site is 120-sq.m. and the stated gross floor area of proposed works is stated to be 29-sq.m. at ground floor level in addition to 9-sq.m. at 1st floor level; thus totalling 38-sq.m.
- 2.3 The submitted drawings indicate that the proposed extension would extend almost the entire width of the rear elevation, the two storey component which has a gable fronted built form would have a maximum

ridge height of 6.45-meters and the single storey component would have a stated overall ridge height of 3.834-meters. The proposed ground floor level component would extend a stated 5.24-meters from the rear elevation whereas the proposed first floor level extension would extend a stated 1.8-meters. The main external finish proposed is smooth render and the roof tiles over the proposed extension would match the existing roof finish of the host dwelling.

3.0 RECENT & RELEVANT PLANNING HISTORY

3.1 Appeal Site and in the Vicinity:

- **ABP Ref. No. PL06F.123998 [P.A. Reg. Ref. No. F00A/1009]:** On appeal to the Board planning permission was granted for the residential scheme at Robswall that the appeal site forms part of.
- The Planning Officer's report details the planning history of extension type developments for which planning permission was sought at Robswall following its completion. This report is attached to file.

4.0 PLANNING AUTHORITY

4.1 **Planning:** The Planning Officer's report concluded that having regard to the land use zoning of the site the proposed development is a type of development that is deemed to be permissible in principle and that the proposed development would not give rise to any adverse residential or visual amenity impacts. This report concludes with a recommendation to grant planning permission.

4.2.0 Interdepartmental Reports:

4.2.1 **Planning & Strategic Infrastructure Department Water Services Division Report** raised no objection to the proposed development subject to a number of recommended conditions.

4.3.0 Submissions:

4.3.1 A 3rd Party submission was received by the Planning Authority during the course of its determination of the proposed development. I have

noted its content and I consider that the concerns raised are the same as those raised by the 3rd Party appellant in their appeal submission to the Board.

4.3.2 A submission received from Irish Water raised no objection to the proposed development subject to a number of recommended standard in nature and scope conditions in the event of a grant of permission.

4.4.0 Planning Authority Decision: The Planning Authority decided to grant planning permission subject to 8 no. mainly standard in nature and scope conditions. A copy of their notification is attached to file.

5.0 GROUNDS OF APPEAL

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

- The proposed development is symptomatic of piecemeal additions which the Board sought to exclude from the parent grant of permission by the restriction of exempted development.
- The proposed development would set a negative precedent for the erosion of the character of the area.
- The proposed build may be seen as speculative as the tenants who had been in residence for in excess of 2 years have vacated the property rather. It is therefore not considered to be driven by specific personal need and it is argued that its purpose is to enhance the value of the property through the addition of floorspace.
- The proposed development would have a negative impact on residential amenity by reason of overshadowing, overlooking and erosion of the character of the area.
- The proposed development is contrary to Condition No. 14 of the Boards decision to grant permission for this residential scheme under ABP Ref. No. PL06F.123998 which excluded development of the type proposed in order to protect the residential character of the area.
- The proposed development would counter Objective OS35 of the Development Plan which seeks to ensure that all areas of private open space have an adequate level of privacy for residents.
- The proposed development would have an overbearing impact on the appellant's property and the introduction of new windows at first and second floor level would result in overlooking of the appellants private

open space. This would be contrary to Objective OS36 of the Development Plan.

- The proposed extension would block natural light to the appellant's private amenity space.
- The proposed development would be counter to Objective OS37 which seeks to ensure that boundary treatments associated with private open spaces for all residential types is designed to protect residential amenity and visual amenity.
- The drawings submitted are misleading showing two windows to the existing rear elevation where only one currently exists.
- The subject property sits forward of the building line and was carefully designed as a landmark building sitting forward of the building line, to define and enclose the street. The proposed extension does not address this unique and challenging design context but rather provides for a standard extension.
- The proposed extension does not address the important dual frontage position of the building introducing a rear extension development to a highly visible and prominent street elevation.
- It is imperative that any addition constructed within this coherently designed residential scheme aligns with the original concept.
- It cannot be said that any extension to the rear of this building would be read as an unseen addition but rather would form part of a very visual prominent elevation.
- Given the scale and siting of No. 31 relative to neighbouring properties it is notable that the gap in the frontage to No. 33 plays an important role in allowing natural light to penetrate to the rear of No. 29.
- It is submitted that the proposed development would not have a minimal impact on existing residential development.
- It is notable how few planning applications for extensions there have been in this area. Those that have been granted are argued to have not set any kind of precedent and relate to a different context.
- At present the private open space to the rear of No. 29 benefits from the existing opening between No.s 31 and 33 providing evening sun to the rear of the property. It is contended that this was clearly a deliberate element of the architectural design to counteract the height of the statement blocks. The addition of a two storey element will prevent this light from accessing the rear private open space thereby injuring the appellant's residential amenity.
- This 3-storey landmark building is one of only three of this building type in the area with none of them having any extensions added to them.

Their distinct architectural style adds to the character of The Walk and Robswall.

- There is limited access to the rear of No. 31 to facilitate construction work and the only other entrance is a pedestrian route between the side walls of No. 31 and No. 29.
- The proposed development would have a negative impact on the visual and residential amenity of the area.
- The Board is requested to overturn the Planning Authority's decision.

6.0 RESPONSES

6.1 The Planning Authority's response may be summarised as follows:-

- The proposed development will not result in an adverse impact on the residential amenity for occupiers of No. 29.
- Reference is made to the new second floor window in the public notices.
- The application is in accordance with planning regulations.
- The proposed development is not contrary to Condition 14 of the parent permission.
- The Board is requested to uphold its decision; however, should the Board be minded to grant permission it is requested that a Section 28 condition be included.

7.0 POLICY CONTEXT

7.1 Local Planning Policy 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 By way of this appeal the 3rd Party appellant is seeking that the Board overturn the Planning Authority's decision to grant planning permission subject to conditions for a proposed development described as consisting of the proposed construction of a part single storey part two storey extension to the rear of an existing dwelling house, the provision of a new second floor level on the rear elevation serving 'Bedroom 1' together with associated internal modifications and all associated site development works at No. 31 The Walk, Robswall, the subject appeal site. The appellant in their grounds of appeal essentially contend that the proposed development is not acceptable, in terms of its residential amenity and visual amenity impacts, with particular concerns raised in relation to the potential impacts of the proposed development on the appellants adjoining property which they argue would not be minimal; and would, therefore be, contrary to the 'RS' land use zoning objective.
- 8.2 The Planning Authority in their response to the grounds of appeal stand behind the reasons for which they based their grant of permission for proposed development on and they do not accept that the proposed development would seriously injure the appellants residential amenity or the residential amenity of other properties in the vicinity and that the residential impacts as well as the visual impacts are acceptable having regard to the context of the site alongside having regard to the proposed development demonstrating compliance with relevant development management standards.
- 8.3 The Planning Authority further argue that the application as submitted is valid as it meets the required planning legislative standards that sets out the criteria for a valid planning application and they note that it is clear in their view from the public notices that the proposed development also seeks the provision of a second floor level rear window. They therefore seek that the Board uphold their decision and should they do so they also seek that a Section 48 development contribution condition be included.
- 8.4 Having examined the documentation on file, inspected the site, had regard to the applicable planning policy provisions as well as submissions and responses received by the Board, I concur with the Planning Authority that the principle of a part single storey and part two storey rear extension on 'RS' residentially zoned land is generally acceptable, it is nonetheless, subject to other specific planning

considerations being satisfied. In particular, it is incumbent on such applications to demonstrate that they would be consistent with the vision for 'RS' zoned land which requires developments on such zoned land to ensure that they have minimal impact on alongside enhance existing residential developments and that the proposed development is consistent with minimum standards set out in the Development Plan applicable to this type of development. I note to the Board that the latter is a requirement of Objective RD07 of the said plan. I consider that the substantive issues for the Board in its determination of this appeal case is whether or not the proposed development, if permitted, would give rise to any material and adverse residential and visual amenity impact.

- 8.5 In terms of residential amenity on balance I generally concur with the Planning Authority that the proposed development would give rise to minimal residential amenity impact on the appellant's property and other properties in its immediate vicinity. Notwithstanding, I do accept that the provision of a second floor level to the rear of the subject property having regard to its positioning relative to adjoining and neighbouring properties would result in some diminishment of daylight reaching the appellants private amenity space. This application is not accompanied by any daylighting and/or overshadowing analysis that would demonstrate that the level of impact would not be significant.
- 8.6 While I am cognisant that the proposed first floor level extension would extend a modest 1.8-meters from the original rear extension of the subject property and that the built form chosen includes a gable built form which significantly sets back the highest point of the roof structure from the appellants property to the east and that there is changing ground levels between the subject property and the appellants property I am not fully satisfied based on the information provided that the loss of daylighting and the level of overshadowing would not be significant relative to its existing situation.
- 8.7 This concern is further heightened by my concerns that No. 31 is highly legible in its streetscape scene as a tower type built form and its visual prominence within its streetscape scene is in my view heightened by its position forward of the front and rear building line of properties to the west and substantially forward of the semi-detached pair to the east. Indeed No. 31 and No. 39 which is identical in height and built form and are separated from one another by a wider paved public domain area which accommodates on-street car parking results in these properties

being highly legible from the public domain as buildings in the round and as a matching pair in its streetscape scene. I consider that this is a deliberate architectural design expression within the design of this residential scheme and 'The Walk' streetscape scene itself. While I would not go as far as to say that they are landmark buildings they are; notwithstanding, buildings that positively contribute and add to the variety of built forms within this residential scheme. This variety is one that also results in staggered roof heights and roof forms. I therefore agree with the appellant that their built form visibility which includes the legibility of its side elevation and of particular relevance to this appeal the rear façade from the public domain is such that a second floor level extension in particular would be likely to have a more significant visual impact on the amenities of its public domain streetscape setting than a more traditionally laid out dwelling within a more typical residential scheme that would rarely include buildings whose front, side and rear buildings to a large extent are forward of the front building line of the majority of properties adjoining and neighbouring it.

- 8.8 In this context the provision of a second floor level extension, albeit of a modest depth, would in my view significantly erode the tower and slender built form of the subject property and it would diminish the visual symmetry it currently maintains within its neighbouring counterpart No. 39.
- 8.9 While I accept that there is potential for the subject site to absorb a single level extension to the rear I am not convinced that the two storey extension proposed would be an appropriate insertion to this host dwelling which forms part of a carefully considered architectural design scheme.
- 8.10 Moreover, I also do not accept the examples of where rear extensions have been permitted within this scheme establish positive precedents that merit significant regard in the Boards determination of the proposed development having regard to their different and varying site contexts.
- 8.11 Based on the above considerations I recommend that the Board grant permission for the single storey extension component of the proposed development and that the second floor level is omitted. In relation to the proposed second floor level window I raise no significant concerns in this regard based on the fact that I do not consider that it would result in any significant diminishment of residential amenity for properties in its vicinity over and above the existing situation.

9.0 Other Matters Arising

- 9.1 *Services and Surface Water Drainage:*** I raise no objection to the proposed development sought in terms of these particular matters subject to the inclusion of the Councils Water Services Division recommendations by way of condition should the Board be minded to grant permission.
- 9.2 *Water:*** I raise no objection to the proposed development sought on this particular matter subject to the inclusion of Irish Waters recommendations by way of condition should the Board be minded to grant permission.
- 9.3 *Appropriate Assessment:*** Having regard to the modest nature and scale of the development sought, the serviced nature of the appeal sites suburban setting together with its separation from any designated European site I do not consider an 'NIS' or 'Stage 2 Appropriate Assessment' is necessary in this case and I am satisfied that all substantive planning issues have been addressed in my assessment above.

10.0 RECOMMENDATION & CONCLUSION

- 11.1 Based on the above considerations I recommend a grant of permission for the reasons and considerations set out below and subject to the conditions set out thereunder:-

Reasons & 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, 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. The second floor level extension shall be omitted and revised drawings submitted to the Planning Authority for their 'written agreement' prior to the commencement of development on site.

Reason: In the interest of residential and visual amenity.

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

Reason: In the interest of public health.

4. External materials, colours and textures shall match the host dwelling and any non-matching finishes shall be agreed 'in writing' with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. 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.

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 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.

Advisory Note: Section 34(13) of the PDA.

Patricia M. Young
Planning Inspector
2nd December, 2015.