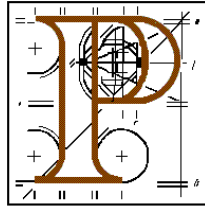


An Bord Pleanála



Inspector's Report

PL 29S.245809

Development

Two houses and associated site works.

Site to rear of nos. 33, 35, 37, 41 & 43 Grosvenor Place, Rathmines, Dublin 6.

Planning Application

Planning Authority: Dublin City Council

Planning Authority Reg. Ref.: 3551/15

Applicant: Vimovo Leinster Road Ltd.

Type of Application: Planning permission

Planning Authority Decision: Refuse permission

Planning Appeal

Appellant(s): Vimovo Leinster Road Ltd.

Type of Appeal: First v refusal

Observers: Six

Date of Site Inspection: 20th January 2016

Inspector: Karla Mc Bride.

1.0 INTRODUCTION

1.1 Site and location

The appeal site is located to the W of Rathmines Village on the S side of Dublin City and the surrounding area is predominantly residential in character. The site is located to the rear of a terrace of 2-storey houses at Grosvenor Place. The site forms part of a larger backland site that has recently been developed for residential use. The N section of this overall site comprises a small section of the rear garden of no.126 Leinster Road which is a Protected Structure. The overall site is bound to the S and E by the grounds of St. Louis school, apartment blocks at Wynnefield House and mews dwellings at Charleville Close. Access is via a new entrance off Grosvenor Place.

Photographs and maps in Appendix 1 describe the site and location in detail.

1.2 Proposed Development

Planning permission is being sought to construct:

- Two 2-storey c.127sq.m. houses on a c.479sq.m. site along.
- The houses would be c.12.5m wide, 8m deep and 6.5m high.
- Each house would have a contemporary design with first floor terraces.
- Each house would have 2 off street car parking spaces and vehicular entrance would be via a recently constructed entrance beside no.29.
- All associated site works.
- The 2 houses would form part of a previously permitted 9 unit residential development at Grosvenor Manor.

Accompanying documents:

- Planning Report
- Engineering Services Report
- Flood Risk Assessment
- Screening Statement for AA
- Screening Statement for EIA

1.3 Planning Authority's Decision

The Planning Authority decided to refuse planning permission for the proposed development for 3 reasons related to:

- Inadequate separation distances with houses at Grosvenor Place.
- Inadequate public open space (reduced from 10% to 7.5%).
- Inadequate private open space and rear garden length, substandard development and injurious to residential amenity.

This decision reflects the report of the City Planning Officer.

The Roads and Traffic Department had no objection to the proposed development subject to compliance with conditions.

The Environmental Services Department had no objection to the proposed development subject to compliance with conditions.

Public submissions:

A total of 10 submissions received which raised concerns in relation to loss of designated public open space; located on site of previously omitted apartment block; inadequate open space provision; visual impact, overlooking and overshadowing; flood risk; insufficient landscaping; and overdevelopment.

1.4 Planning history

Reg.Ref.2111/08- Permission sought for the construction of 21 residential units in 4 blocks (A, B, C & D) on the overall lands (c.2.9ha) comprising mews dwellings, duplex apartments and apartments. The number of units was reduced from 21 to 14 by way of FI. Block C omitted by ABP for reasons related inadequate separation distances and to provide for further surface water attenuation with 470sq.m. of public open space. A total of 11 units were permitted by ABP under PL29S.233294.

Condition no.2 stated:

Block C (three units) shall be omitted from the scheme and this area shall be set out as open space (and may be used to provide further enhanced surface water attenuation capacity).

Reason: In the interest of residential amenity, having regard to the inadequate separation distances provided to the houses on Grosvenor Place.

Reg.Ref.3935/14 – Permission granted for amendments to the previously permitted scheme mainly comprising the omission of 2 houses in the NE corner, reduction in site area and new boundary treatment with protected Structure. A total of 9 units were permitted by ABP under 29S.244606.

2.0 DEVELOPMENT PLAN

Zoning objective: The site is located within an area zoned with the objective “Z1” in the Dublin City Development Plan 2011-2017 which seeks “To protect provide and improve residential amenity.”

Policy and objectives:

Backland Development: section 17.9.5 that the Council will allow for the provision of comprehensive backland development where the opportunity exists on land that lies to the rear of an existing property or building line provided that it does not cause a significant loss of amenity to existing properties and applications will be considered on their own merits.

Development standards:

Public open space: In new residential developments, 10% of the site area should be reserved as public open space.

Private Open Space: A standard of 15sq.m of private open space per bed-space will normally be applied.

Separation distances: 22m between directly opposing rear first floor windows.

Rear garden depth: 11m normally required.

Car parking: 2 off street spaces normally required.

Heritage:

Protected Structures: No.126 Leinster Road to the NE of the site is a PS.

Architectural Conservation Areas: None in the vicinity.

Natural Heritage: None in the vicinity or directly linked to the site.

European sites: None in the vicinity or directly linked to the site.

3.0 APPEAL

3.1 First Party appeal

Background:

- Designed seeks to overcome the reason for the omission of the previous Block C due to inadequate separation distances.
- The principle of building on the site is acceptable and the houses would provide passive surveillance to the future playground.
- No grounds for refusal of permission with regard to established precedents set by similar developments and the proposed design.

Reason no.1 - Separation distances and overlooking:

- Proposed separation distance are mainly 14.1m (although 12.7m in parts) and the main bulk was set back 8m from the boundary wall; there is no absolute requirement to achieve a 22m separation and the standard refers to opposing first floor rear windows; no windows proposed in first floor rear elevation; and the Board previously accepted a 14m separation distance for an infill site (06F.239468) where there were no opposing first floor rear windows.
- The rear garden depths are consistent with the established pattern in the area, the Board accepted a 2.3m separation between the first floor gable wall and shared boundary under the parent permission and c.6m is now proposed at first floor level.
- Propose to reduce the number of first floor terraces to a single terrace only, reduced in size from c.11.5sq.m. to 4sq.m with a reduced depth of 1.26m, and to replace the timber screening with a rendered wall; access is via bedroom no.2 only with no noise generation concerns; but willing to accept a condition to omit the terrace completely.

Reason no.2 - Reduction in open space:

- Flexibility exists to provide for a reduced quantum of open space on infill sites as such sites cannot always provide the same space associated with greenfield sites and a financial contribution is often accepted; willing to pay a contribution in lieu of open space.
- There are several established areas of public open space within a 500m radius of the site and the space within the overall scheme is of a high quality and will include a playground.

- Under the previous application which required the omission of Block C, the Board indicated that some of the development removed by this omission might be replaced at the proposed location of the playground subject to a separate planning application.

Reason no.3 – Private open space:

- The PA was concerned about the inadequate provision of private open space for unit no.11 but not for no.10; propose to redesign the units to improve the layout and quantity of space for both units.
- The total private open space provision equates to 60sq.m. for the 4 bed spaces and the redesign would provide for 89.5square metres for unit no.10 and 82sq.m. for unit no.11, with a 6m rear garden depth (reduced in vicinity of rear return which could be used for bin storage).

3.2 Observers

Six letters of observation received from five residents of Grosvenor Place (Timothy & Cian O’Flaherty, Kevin & Patricia Tiernan, Brendan Tannam, Lorraine Hackett & David Clerkin, and Naimh Garvey) and one from Rathgar Residents’ Association. Their collective concerns are summarised below.

- Inadequate separation distances with Grosvenor Place houses.
- Block C at this location was previously omitted by ABP and the proposal contravenes conditions attached to a previous Board decision.
- Site deemed unsuitable for development and loss of vital surface water attenuation area.
- Significant reduction in public open space for overall development, less space for landscaping and boundary treatment and overdevelopment.
- Adverse impact on visual and residential amenities (overlooking, overshadowing and loss of privacy).
- No reference to previously permitted houses in the vicinity.
- Substandard and overbearing design, unacceptable layout, inadequate private open space and poor quality passive surveillance.
- Failure to provide a playground.
- Increased traffic generation.

- No spare drainage capacity and increased flood risk.
- Precedent case relates to a different local authority area and to a different set of circumstances.

3.3 Planning Authority response

No response to date.

3.4 Prescribed Bodies

The appeal was not circulated to any of the prescribed bodies.

4.0 REVIEW OF ISSUES AND ASSESSMENT

The main issues arising in this case are:

1. Principle of development
2. Material contravention of a previous Board condition
3. Residential amenity and public open space
4. Other issues

4.1 Principle of development

The development would be located within an area zoned “Z1” for residential use in the current Development Plan and the proposed houses would be compatible with this objective. However the houses would be located on a site that was previously considered unsuitable for residential development by the Board for reasons related to amenity, open space and surface water attenuation and there would need to be a material change in circumstances to render the proposal acceptable in principle.

4.2 Material contravention of a previous Board condition

The Board granted permission under PL29S.233294 for a residential development on a backland site to the rear of nos.29-47 Grosvenor Place. Permission was granted for three of the four proposed blocks along with 11 of the 21 proposed units. The total number of units was subsequently reduced from 11 to 9 under PL29S.244606 when the developer sought to omit 2 houses in the NE corner of the site. These houses would have been located in a section of the site that comprised part of the rear gardens of nos.126-128 Leinster Road which are Protected Structures, and the overall site area was also correspondingly reduced.

The proposed houses would be located on the site of Block C which was omitted for reasons related to inadequate separation distances with the houses at Grosvenor Place and to provide for an acceptable amount of public open space along with additional capacity for surface water attenuation.

The Board considered that some of the development removed by the omission of Block C might be replaced at the proposed location for the playground, subject to a separate planning application. Landscape Drawing no. 08741/2/201 of the parent permission (viewed on the DCC website) indicates that the playground would be located in the NE corner of the site

between Block A and Block C and to the SW of the two houses that were omitted under 29S.244606. However, the apartment scheme is complete, the playground has not yet been provided and the site of the playgrounds appears to be occupied by part of the internal road and a disabled parking bay. Furthermore, the size of this corner section of the overall site was reduced under PL29S.244606 as previously stated.

Having regard to all of the above, I am satisfied that there has been no material change in circumstances and that the proposed development would materially contravene Condition no.2 of the planning permission granted by the Board under PL29S.233294.

Notwithstanding this conclusion, the concerns raised in relation to residential amenity, open space and surface water attenuation will be assessed in more detail in the following sections to this report.

4.3 Residential amenity and public open space

The site is located within an established residential area that comprises a mix of houses of various ages and designs and it forms part of a backland site that was recently developed for residential apartment use. The proposed houses (as amended by way of the Appellant's appeal submission) would provide for an acceptable level of residential amenity and private open space.

The previously omitted Block C would have comprised a rectangular 2-storey block located parallel and in close proximity to the existing houses at no.29 to no.47 Grosvenor Place to the W. The existing 2-storey houses have short rear gardens and many of them have single storey rear extensions that extend almost as far as the rear boundary wall with the appeal site. The Board concluded that Block C would have had an adverse impact on the residential amenities of these houses.

Both the currently proposed 2-storey houses and the amended design and layout submitted with the First Party appeal would be located in close proximity to the neighbouring houses at Grosvenor Place, and in particular their single storey rear extensions. The separation distances would continue to be substandard and significantly below the 22m normally required between opposing first floor rear windows. Notwithstanding the absence of windows to first floor habitable rooms in the proposed W elevations and the suggested omission of the first floor terraces, the proposed development would continue to have an overbearing impact on the neighbouring houses to the W. The proposed houses would also be located to the E of the neighbouring houses at Grosvenor Place which would be overshadowed in the early part of the day.

The proposed houses would be located in a site that is designated as the main area of Public Open Space to serve the residential development permitted under PL29S.233294. Given that there is only one other small useable plot of Public Open Space within the entire scheme, the loss of a large section of the subject site to housing would have an adverse impact on the residential amenities of the future occupants of this scheme.

A large proportion of the surface area within the overall site is impermeable given that it is dedicated to buildings, roads, car parking and footpaths. The development of this site for housing would result in the loss of an area that has a natural capacity for surface water attenuation which, notwithstanding the submitted Flood Risk Assessment, would not be unacceptable.

Conclusion:

Having regard to all of the above, the proposed development would seriously injure the residential amenities of properties in the vicinity by way of overshadowing and overbearance. The proposed development would also give rise to an unacceptable reduction in the amount of public open space available for the use by the residents of Grosvenor Manor and result in the loss of an area that has a natural capacity for surface water attenuation.

4.4 Other issues

Vehicular access and car parking: The proposed arrangements are considered acceptable subject to compliance with Council requirements.

Environmental services: The proposed arrangements are considered acceptable subject to compliance with the requirements of the Council and Irish Water.

Heritage: The proposed development would not have any adverse impact on any nearby Protected Structures located along Leinster Road to the N.

Appropriate assessment: The proposed development would not have an adverse effect on any European Sites.

Environmental Impact Assessment: The proposed development would not be off a sufficient scale or located in close proximity to any sensitive sites to warrant have an adverse effect on any European Sites.

Precedent: The concerns raised in relation to the precedent set by previous Board decisions with regard to similar developments are noted. However each case is assessed on its merits and with respect to the particular circumstances of the case and the characteristics of the surrounding area.

5.0 RECOMMENDATION

Arising from my assessment of the appeal case I recommend that planning permission should be refused for the proposed development for the reasons and considerations set down below.

REASONS AND CONSIDERATIONS

- 1.** The proposed development would materially contravene a condition of a planning permission granted by An Bord Pleanála under PL29S.233294 for a residential development to the rear of the houses on Grosvenor Place. Condition no.2 required the omission of Block C from the scheme and that the area should set out as open space, in the interest of residential amenity, having regard to the inadequate separation distances provided to the houses on Grosvenor Place. The proposed development, would, therefore be contrary to the proper planning and sustainable development of the area.
- 2.** Having regard to the scale, layout and height of the proposed development, the inadequate separation distances provided to the houses on Grosvenor Place, and to the orientation of the proposed houses to the east of the existing houses, the proposed development would seriously injure the residential amenities of neighbouring properties by way of overshadowing and overbearance. The proposed development, would, therefore be contrary to the proper planning and sustainable development of the area.
- 3.** The proposed development would reduce the amount of Public Open Space within the entire scheme to below the acceptable Development Plan standard of 10% which would in turn have an adverse impact on the residential amenities of the future occupants of this scheme. The proposed development, would, therefore be contrary to the proper planning and sustainable development of the area.

Karla Mc Bride

Senior Inspector

21st January 2016