

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL06D.245946

Development: Removal of single storey element to side of dwelling and construction of dwelling

Location: 29 Westminster Lawns, Foxrock, Dublin 18.

Planning Application

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.: D15A/0309

Applicants: Carol and Robin Palmer

Planning Authority Decision: Grant permission

Planning Appeal

Appellants: (1) Derek McHugh & Neighbours
(2) Frank & Anne Kennedy

Type of Appeal: Third party

Date of Site Inspection: 15/4/16

Inspector: Siobhan Carroll

1.0 SITE LOCATION AND DESCRIPTION

- 1.0.1 The appeal site is located at no. 29 Westminster Lawns, Foxrock, Dublin 18. Westminster Lawns is situated on the western side of the N11 and to the south of White's Cross. The housing estate and the adjoining Torquay Wood were constructed in the 1970's. The entrance to the estate is off Leopardstown Road which runs from junction with the N11 to the east and the junction with the M50 to the west.
- 1.0.2 The site has an area of 0.0495 hectares. It comprises the plot of no. 29, a corner site which contains a two-storey detached dwelling. The property is situated at the entrance to a cul-de-sac containing twelve similar detached dwellings.
- 1.0.3 The front boundary is formed by a mature griselinia hedge. The eastern side boundary runs for 30m it is formed by a section of griselinia hedge and a rendered capped wall.

2.0 PROPOSED DEVELOPMENT

Permission is sought for the removal of a single storey element to side of the existing detached dwelling and construction of detached two-storey dwelling. Features of scheme include;

- Site area – 0.0495 hectares,
- Area of proposed dwelling – 118sq m,
- Area of existing to be demolished – 22sq m.

3.0 PLANNING HISTORY

Reg. Ref. D14A/0072 – Permission was refused for the removal of the side-facing ground floor bay window to the existing house and the construction of a detached, two-storey, 3-bedroom dwelling. Permission was refused for two reasons. The first refusal reason stated that the proposed house, by reason of its siting and design at this prominent corner location, would appear visually discordant when viewed from the public realm and would seriously detract from the area in terms of visual amenity. The second refusal reason stated that the proposal constituted overdevelopment of the site and referred to the deficient off-street car parking provided.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Internal Reports:

Transportation Planning: No objection subject to conditions.

Water and Waste Services: No objection subject to conditions.

Submissions

The Planning Authority received 5 no. submissions in relation to the planning application. The issues raised are similar to those set out in the appeals.

4.2 Planning Authority Decision

Following the submission further information the Planning Authority granted permission subject to 14 no. conditions.

5.0 GROUNDS OF APPEAL

Third party appeals have been lodged by (1) Derek McHugh & Neighbours and (2) Frank & Anne Kennedy

(1) Derek McHugh & Neighbours

- The proposed development is not in accordance with the zoning objective. It is considered that the proposal will neither protect nor improve the existing residential amenities of the area.
- The Development Plan stresses that infill development should have regard to and reduce any impact upon boundary features. The proposed development would result in the altering of the principle layout of the Westminster Lawns.
- The appeal site is a corner site. It is one of six corner sites within Westminster Lawns. Due to the limited number of houses within Westminster Lawns and the rigid housing layout arranged along a main access road with four cul-de-sacs off it is considered that the estate has a strong urban design character. The proposed dwelling if granted would appear visually obtrusive in the streetscape and would set a precedent for similar development.
- The proposed development would breach the established side building line.

- The proposed scheme involves the demolition of the single storey annex to the side of the existing dwelling. The annex is not an extension it is an original design feature of the dwelling.
- The proposal would result in the removal of existing mature planting which would impact upon the design character of the area.
- It is requested that the Board overturn the decision of the Planning Authority and refuse permission for the reasons set out in the appeal.

(2) Frank & Anne Kennedy

- In 2014 permission was refused for a dwelling on the site because it was considered visually discordant at this prominent location.
- The proposed development would create a precedent for similar corner site development within Westminster Lawns.
- There are 5 no. other prominent corner sites within the estate.
- The development of the site would cause noise and disruption to residents.
- The appellants request that the Board overturn the decision of the Planning Authority.

Oral Hearing Request

- The third party appellants Frank & Anne Kennedy requested that the Board hold an Oral Hearing in respect of the appeal. In a meeting conducted on the 16th of February 2016 the Board determined that an Oral Hearing should not be held.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

A response to the third party appeal has been submitted by Edward Fitzgerald Selby, Architect on behalf of the applicants Carol & Robin Palmer. The main issues raised concern the following;

- The proposal has been carefully designed with respect to development plan standards and pre-planning consultation took place which informed the current scheme.

- It is stated that the proposal complies fully with the Council's infill policy and the standards for corner site developments.
- In relation to the appeal made by Frank & Anne Kennedy it referred to five other corner sites within the estate and that the proposed development would create a precedent. There currently are no precedent for the Local Authority to give consideration to.
- Regarding the disruption which development would cause, it is stated that a build time of six months is envisaged.
- In relation to the appeal made by Derek McHugh & Neighbours it was stated that the development was contrary to the zoning objective. The first party consider the proposal is fully in accordance with the residential zoning objective.
- Regarding the architectural merit of the existing dwelling, it is considered that the dwellings within Westminster Lawns are not architecturally significant. The six corner sites within the estate have been ascribed a significance by the appellants in terms of design character of the area. The appellants consider this has been overstated.
- The appellants raised the matter of the proposed dwelling breaching the building line. It is stated that the proposed new dwelling adheres to the front and rear building lines.
- Reference is made in the appeal to the existing mature planting on the site which it states is a unifying feature in the estate. In response it is noted that while the planting within the garden contributes the overall appearance of the area it is within private property and forms part of that properties amenity space. The owners of the property can at any time remove the planting.
- The proposed house design is contemporary and it integrates well into the existing streetscape.
- Two applications made in Rocwood the adjoining residential area to the north-west are noted as similar infill development which was granted. Under Reg. Ref. D11A/0267 permission was granted for the demolition of a single storey conservatory to side and construction of a new detached house to side garden at no. 1 Rocwood, Galloping Green, Blackrock, Co. Dublin. Under Reg. Ref. D07A/1476 permission was granted for alterations to planning permission PL.06D.219454, granted 09 March 2007, described as the provision of a two-storey, detached, two bedroom house at no. 13 Rocwood, Bray Road, Blackrock, Co. Dublin.

6.1 Planning Authority response

- The Planning Authority submitted a response to the Board on the 27th of January 2016. The main issues raised are as follows;
- The previous refusal on site Reg. Ref. D14A/0072 did not include the demolition of the single storey element of the existing dwelling. The site area for the proposed house under that application was narrow and cramped.
- The currently proposed dwelling has a larger site and a rear garden which meets development plan standards.
- It is considered that the current application addressed the reasons for refusal under Reg. Ref. D14A/0072.
- The Board were advised to refer to planning officer's report.

7.0 POLICY CONTEXT

Dun Laoghaire-Rathdown Development Plan 2016-2022

The subject site at no. is located on Map 6 of the Dun Laoghaire Rathdown Development Plan and is identified as being Zoned Objective A 'to protect and/or improve residential amenity'.

- Chapter 8 – Principles of Development
- Section 8.2.3.4 – refers to Additional Accommodation in built up areas
- Section 8.2.3.4 v – refers to Corner/Side garden sites

8.0 ASSESSMENT

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of development and planning history
- Impact on amenity
- Appropriate Assessment

- Development Contribution

8.1 Principle of Development and planning history

8.1.1 It is proposed to remove the single storey element to side of the existing detached dwelling on site and construct a detached two-storey dwelling. 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 a dwelling in a side garden is acceptable at this location.

8.1.2 The appellants cited the previous decision on site where under Reg. Ref. D14A/0072 where permission was refused by the Planning Authority for a dwelling to the side of existing dwelling. Permission was refused on the basis that the proposed dwelling would appear visually discordant and seriously detract from the area in terms of visual amenity and that it would represent overdevelopment of the site including the lack of off-street car parking.

8.1.3 In relation to the matters of visual impact and overdevelopment of the site the current proposal has addressed these issues with an increase in the site area with the proposed demolition of the single storey element to the eastern side of the existing dwelling. The revised site has provided for 2 no. off-street car parking spaces to the front of the proposed dwelling and the side of the dwelling would be inset 864mm from the site boundary.

8.1.4 The Planning Authority in their assessment of currently proposed scheme were satisfied that the previous refusal reasons had been satisfactorily addressed. Having reviewed the plans and inspected the site I would concur with the Planning Authority that proposals represents a significant improvement in terms of the provision of car parking and amenity space within the site. I shall examine the visual impact of the proposal and its compliance with Section 8.2.3.4 v of the Development Plan which refers to Corner/Side garden sites in the subsequent section of the report.

8.2.1 Impact on amenity

8.2.1 Section 8.2.3.4 v of the Development Plan which refers to Corner/Side garden sites it states applications will be assessed having regard to size, design, layout relationship with the existing dwelling and immediately adjacent properties, development Plan standards car parking for existing and proposed dwellings and private open space for existing and proposed dwellings.

- 8.2.2 The appellants have expressed concern that the proposal would impact upon the design character of Westminster Lawns estate in terms of setting a precedent for the development on a corner site and breaching the established building line. The site is a corner site in a mature residential area. I note that there are currently no other examples of infill development within the Westminster Lawns estate. The first party in their response to the appeals noted that permission was granted for two dwellings on infill corner sites within Rocwood the adjoining residential area to the north-west. Rocwood was building at the same time as Westminster Lawns and contains dwellings of the same or similar design. While I note the cited examples in Rocwood the current proposal should be assessed in terms of its design impact within Westminster Lawns and its compliance with the relevant development plan design standards.
- 8.2.3 In terms of its design character the proposed dwelling has a ridge height of 7.148m with a relatively low pitched roof. The ridge height and pitch are similar to the existing dwelling and the front gable elevation featuring two vertical emphasis windows at first floor. This integrates well with the design character of the existing housing. It is proposed to remove the single storey element of the existing dwelling along its eastern side. While it is noted that this is an original design feature, I do not consider that its removal would have an overall detrimental impact upon the design character of the existing dwelling.
- 8.2.4 Regarding the matter of building lines, I note that the proposed dwelling would be in line with the established front and rear building lines along the northern side of the cul-de-sac. In relation to the side building line, while the new dwelling would be built to the east of the existing dwelling it would be inset from the side boundary of the site and set back from the footpath. Therefore, I am of the opinion that the proposed dwelling would not unduly impact upon the visual amenity and the design character of the area.
- 8.2.5 Section 8.2.8.4 (i) refers to private open space. The minimum required private open space for the new dwelling with three bedrooms 60sq m. The Development Plan requirement for minimum rear garden depth is 11 metres. The proposed layout provides a rear garden with a minimum depth of 10.336m to the boundary with the adjoining property to the north. This is considered acceptable as it is the same as that of the existing dwelling. The proposed area of the rear garden is circa 84sq m which is in excess of the required 60sq m for a three bedroom dwelling. The area of the remaining rear garden of no. 29 Westminster Lawns would be in excess of 95sq m. The private open space provision for both existing and proposed dwellings is in accordance with Development Plan requirements. Accordingly, a satisfactory level of private amenity space has been provided for both dwellings.
- 8.2.6 Table 8.2.3 of the Development Plan refers to Residential land use car parking standards. It is required under the Development plan that for a three

bedroom dwelling that a minimum of 2 no. car parking space be provided. Two on-site car parking spaces are provide to the front of the dwelling with the provision of the car parking also the front of the existing dwelling. Accordingly, a satisfactory level of car parking has been provided.

8.3 Appropriate Assessment

8.3.1 In relation to the matter of appropriate assessment, I consider that having regard to the nature of the proposal a dwelling and the nature of the receiving environment, namely a suburban and fully serviced location that no appropriate assessment issues arise.

8.4 Development Contribution

8.4.1 The site is located within the area to which The Dun Laoghaire Rathdown Supplementary Development Contribution Scheme for Extension of the Luas Line B1-Sandyford to Cherrywood applies. Given that there is no exemption for the proposed development under the Supplementary Contribution Scheme, I would recommend that should the Board decide to grant permission that a Supplementary Contribution Scheme condition should be applied.

9.0 CONCLUSIONS AND RECOMMENDATION

9.0.1 I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be granted for the following reasons and considerations.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016 - 2022, to the nature and scale of the proposed development and to the pattern of existing development in the 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, as amended by the further plans and particulars submitted on the 30th of October 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 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. Water supply and drainage arrangements, including the disposal of surface water, shall be in accordance with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

4. All service cables associated with the proposed development (such as electrical, telecommunications and television cables) shall be located underground.

Reason: In the interests of visual and residential amenity.

5. 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 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.

6. 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.

7. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Siobhan Carroll,
Inspectorate
25th of April 2016