

An Bord Pleanála



Inspector's Report

Appeal Reference No: PL06D.246029

Development: Erect semi-detached end of terrace house, site excavations, replace existing entrance, erect new boundary walls and gates at 20 Rock Lodge, Killiney, County Dublin.

Planning Application

Planning Authority: Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.: D15A/0535
Applicant: Van Der Burgh Developments
Planning Authority Decision: Grant with conditions

Planning Appeal

Appellant(s): (1) Till Schaefer
(2) Tom and Maura MacMahon
Type of Appeal: Third Party Vs Grant
Observers: None
Date of Site Inspection: 29th April 2015

Inspector: Hugh Mannion

1.0 SITE LOCATION AND DESCRIPTION

The application site has a stated area 0.0275ha and is located at the end of a residential cul de sac known as Rock Lodge which is located in Killiney, Co. Dublin. The predominant dwelling type along this cul de sac is two-storey semi-detached houses with front and rear gardens. Originally these houses had side garages but a number of these garages have now been converted to living accommodation. The application site is the northern end of what appears to have been originally the side garden of 20 Rock Lodge which itself has been extended to the side and rear. The ground levels drop from south to north along this cul de sac, as a result the application site is low lying compared to other sites in the development. The estate is estimated to date from the 1980s.

The application site backs onto another residential estate known as Mount Auburn which is located to the east and elevated over the application site.

2.0 PROPOSED DEVELOPMENT

Erect a part two storey/ part single storey to the rear semi-detached end of terrace house comprising three bedrooms and living rooms, site excavations to facilitate the proposed development, close existing vehicular entrance and create a new vehicular entrance, erect new boundary walls, sliding gates and parking area at 20 Rock Lodge, Killiney, County Dublin.

3.0 PLANNING HISTORY

Under PL06D.243566 permission was refused for the erection of a new split level, three-storey, four bedroom, detached house beside 20 Rock Lodge with a semi-basement lower ground floor and car port, along with a partially set back upper floor and associated works on this site because;

Having regard to the limited separation distances proposed between the proposed dwelling and the shared boundary with number 8 Mount Auburn to the east, and also the limited separation distance proposed between the proposed dwelling and the rear elevation of the said neighbouring dwelling, it is considered that the proposed development would seriously injure the amenities of the neighbouring dwelling by reason of visual intrusion, overbearing impact and overlooking. The separation distances proposed would result in a development that would be out of character with the pattern of development in this suburban location. Furthermore, the Board is not satisfied that the proposed development would not lead to overshadowing of neighbouring properties, thereby seriously injuring the residential amenity of those properties. The proposed development would seriously injure the amenities of the area and of property in the vicinity

and would, therefore, be contrary to the proper planning and sustainable development of the area.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

The **planner's report** recommended a grant of permission as set out in the manager's order.

Transport Planning Section's report reviewed the further information submitted and recommended a grant of permission subject to conditions.

Drainage Section (surface water) reported no objection.

Irish Water reported no objection.

4.2 Planning Authority Decision

The planning authority initially requested further information in relation to a shadow analysis of the impact on adjoining property, the provision of two off-street parking spaces, access to these spaces and proposed boundary treatment.

Following submission of the further information the planning authority granted permission subject to 12 conditions. None of the conditions materially altered the proposed development.

5.0 GROUNDS OF APPEAL

The grounds of appeal may be summarised as follows;

- The site is too small for the proposed quantum of development and is out of scale and character with development in the area. The proposal contravenes the Development Plan objective for the area which is to protect and improve residential amenity.
- The separation distances between the rear of the proposed house and the rear of 8 Mount Auburn to its rear is 13.5m at first floor level which fails the Development Plan requirement for 22m and will give rise to overlooking of adjoining property. The proposed development is too close to the boundary with 9 Mount Auburn

- The proposed privacy screening indicated in the first floor plan is not replicated in the elevation/section drawings. The proposed development would overlook the rears of 8 and 9 Mount Auburn.
- The proposed development would overshadow 8 and 9 Mount Auburn. The shadow analysis is inadequate in that it does not reflect the topography on the application site and 8 Mount Auburn. Is incorrect in relation to the availability of sunlight in March/September.
- The differences in site levels would mean direct lines of sight from the first floor windows of the new house into the ground floor windows of the house at 8 Mount Auburn.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The planning authority stated that the proposal will not impact on adjoining property.

6.2 First party response

The applicant responded (in two separate submissions) to the grounds of appeal as follows;

- Because of the differences in site levels the roof of the two storey element corresponds approximately to below the first floor sill level of 8 Mount Auburn. The proposed first floor windows do not directly face the rear of 8 Mount Auburn.
- The rear façade of the proposed development does not face onto 9 Mount Auburn but is at an acute angle to it. The proposed development is 2.282m off the rear boundary of 9 Mount Auburn.
- There will be no overlooking of 8 and 9 Mount Auburn as the first floor windows are fixed and obscured and a mature tree on the boundary with 9 Mount Auburn further screens that property. The first floor bedroom window does not face 8 or 9 Mount Auburn and has protruding frame which further diminishes the possibility of overlooking.
- The shadow analysis accurately reflected the potential for overshadowing from the proposed development.
- The proposal was designed to overcome the previous refusal reason under PL06D.243566 is not out of character with the pattern of

development in the area. The Development Plan supports higher densities in existing suburbs.

6.3 Observations on grounds of appeal

There are no observations on file.

7.0 POLICY CONTEXT

Policy RES4 states

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

8.0 ASSESSMENT

8.01 History Case PL06D.243566

8.02 Under PL06D.243566 permission was refused for the erection of a new split level, three-storey, four bedroom, detached house, to the north of the existing house with a semi-basement lower ground floor and car port, along with a partially set back upper floor and associated works on this site. The reason given in that case may be summarised as follows;

- The limited separation distances between the proposed house and the shared boundary with number 8 Mount Auburn to the east,
- the limited separation distance between the proposed dwelling and the rear elevation of 8 Mount Auburn.
- The separation distances proposed would result in a development that would be out of character with the pattern of development in this suburban location.
- the proposed development may lead to overshadowing of neighbouring properties, thereby seriously injuring the residential amenity of those properties.

8.03 The Proposed Development

8.04 The amended proposal under the present application has a more conventional footprint providing a closer approximation to the site layouts in the adjoining houses. The separation distances from the boundary with **7 Mount Auburn** is now between 8.6m and 9.3m. The separation distance off the boundary at first floor varies from 13.6m to 14.3m the application site. Therefore I do not consider that there will be unreasonable impacts on 7 Mount Auburn.

8.05 The walk way between the proposed ground floor and the rear boundary of 8 Mount Auburn narrows to about 1m. There is a first floor bedroom window on the eastern elevation which will face the rear garden of **8 Mount Auburn** at an oblique angle at a distance of about 4.5m with screens to both sides. I consider that this window could be amended to a 'spy' window facing onto the flat roof of the existing extension at 20 Rock Lodge to obviate any perception of overlooking of adjoining property. I attach a draft condition giving effect to this recommendation.

8.06 The appeal makes the point that there will be over shadowing of the rear garden of 8 Mount Auburn. The proposed development is 6.6m at its highest and the side element on the northern elevation is 5.7m high. The applicant submitted a shadow analysis as further information and this indicates that there will be no greater impact on the rear garden of 8 Mount Auburn than applies at present. The appeal disagrees with the shadow analysis and states that it does not factor in the difference in site levels and therefore is inaccurate.

8.07 The application site is almost exactly due west of 8 Mount Auburn and therefore the most significant time for overshadowing from the proposed development would be mid-summer. There is a section drawing through the site (see section BB on drawing Number 2 submitted on the 21st August 2015) with 7 Mount Auburn, which I consider comparable with 8 Mount Auburn, which indicates a difference in site levels of about 2.5m.

8.08 Having regard to the drawings submitted, the height of the proposed main house and the more northerly element thereof and the orientation of the proposed house relative to 8 Mount Auburn I conclude that the proposed development will not unreasonably overshadow the appellants' property.

8.09 The proposed house is a maximum of about 7m and a minimum of about 6m off the boundary with **9 Mount Auburn**. There are two first floor windows facing north towards 9 Mount Auburn; one serves a bedroom and one a bathroom. Both windows have fixed obscure glass. Having regard to the orientation of the proposed development south of the garden of 9 Mount Auburn, to the height of the proposed house and the treatment of the north facing first floor windows I conclude that the proposed development will not unreasonably overshadow or overlook the property at 9 Mount Auburn

8.10 The appeal makes an additional point that the site is too small for the quantum of development proposed. The current proposal has been significantly reduced in scale when compared to the previous application under PL06D.243566 (originally 285m² reduced to 147m²). Having regard to this relatively modest floor area and the adequate provision of private open space I conclude that the site can accommodate the proposed development.

8.11 Parking

8.12 Following on the report from Transport Planning section the planning authority sought further information showing the layout of two on-site car parking spaces. The initial application (see “proposal, plans, elevations sections” drawing number 02 received by the planning authority on the 21st August 2015) provided one off-street car space. Given the nature of neighbouring development in Rock Lodge, the availability of on-street parking and the relatively minor nature of the proposed development I recommend requiring only one off-street space. I also consider that the amenity of the adjoining gardens would benefit from the reduction in the level of vehicular movements into/out of the side garden of the site. I attach a draft condition giving effect to this recommendation.

8.13 Appropriate Assessment.

8.14 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

9.0 CONCLUSIONS AND RECOMMENDATION

Having regard to the foregoing I recommend a grant of permission for the reasons and considerations and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

The proposed development is located in an area zoned “to protect and/or improve residential amenity” in the Dun Laoghaire Rathdown County Development Plan 2016 to 2022. Having regard to pattern of residential development in the immediate vicinity, to the modest scale of the proposed development and subject to the conditions set out below it is considered that the proposed development would not seriously injure the residential amenity of property in the area and would otherwise accord with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 27th day of November 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 and the development shall be retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. One off-street car parking space only shall be provided on site. Prior to commencement of development plans and particulars providing for this single off-street car parking space, entrance gates and boundary treatment along the public road shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of residential amenity and traffic safety.

3. The east facing window of the proposed first floor rear bedroom shall be replaced with a spy window facing north. Prior to commencement of development plans and particulars providing for this amended window shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of residential amenity.

4. 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 and to ensure a proper standard of development.

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

Reason: In the interest of visual amenity.

- 6 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

- 7 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

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.

Hugh Mannion
Planning Inspector
3rd May 2016.