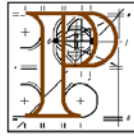


An Bord Pleanála



Inspector's Report

Appeal Reference No: 06D.246155

Development: Partial demolition, subdivision, alteration and extension of house to provide two houses, site works, entrance, at 1 Churchtown Road Lower, Churchtown, Dublin 14.

Planning Application

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.: D15A/0737

Applicant: Cathriona Hogan and Garry Flood

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant: Richard Crowe

Type of Appeal: Third v Grant

Observers: None

Date of Site Inspection: 7th May 2016

Inspector: Mairead Kenny

1.0 SITE LOCATION AND DESCRIPTION

The site is located in an inner suburban location in Milltown / Churchtown in south Dublin, at the boundary of the jurisdiction of Dublin City and Dun Laoghaire Rathdown. The Dodder and associated linear parkland are to the north, the 'Dropping Well' public house to the north-west and Milltown Golf Club to the west at the opposite side of Churchtown Road Lower. The site is at the corner of Patrick Doyle Road, which is minor and lightly trafficked road and Churchtown Road Lower, which is a local road connecting Milltown and Rathmines to Dundrum and nearby areas.

A dormer dwellinghouse is in situ on the site, which is of stated area of 0.059 hectares. There is a large rear window at first floor level of the existing house. The garden level is low compared with the finished floor level of the house and the rear garden is partly defined by a high block wall which is over 2m in height.

Churchtown Road Lower is steeply aligned and the level of the site is under 2m below that of the adjacent house to the south, 2 Churchtown Road Lower. No. 2 is separated from the rear garden of the existing house by a high overgrown wall and fence. The rear of that house is orientated towards the east.

The entrance to the existing house is at the northern end of the site and adjacent the entrance to 1A Churchtown Road Lower positioned to the rear (east / south-east) of the site. The latter house is the place of residence of the appellant. The position of the house is indicated on application drawings.

The appellant's house is located at the end of a 50m long private laneway which terminates at electronic gates beyond which is a large paved forecourt. Features of note include the side window serving the kitchen and the bay-type feature window which serves main living space and which includes west facing elements. From a position standing outside these windows I noted that the houses at Churchtown Road Lower are visible. I refer in particular to no. 3 which has a large dormer window level in a converted attic, to no. 2 which is at a lower level and to the subject site where the existing

dormer house is largely obscured by vegetation and which due to its level and height, is not a dominant feature.

Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

2.0 PROPOSED DEVELOPMENT

Permission is sought for modifications to an existing house to develop 2 no. houses to be known as no. 1 and no. 1B Churchtown Road Lower. In brief the development comprises:

- partial demolition, subdivision, alterations and extension of existing detached dormer dwellinghouse (c217 square metres) to provide 2no. three-storey houses (c210 square metres and 173 square metres)
- balconies / terraces to south-western and northern elevation
- changes largely within the footprint of the existing dwellinghouse with the exception of a single storey rear extension and front extension
- new vehicular access and site works.

Planning Report submitted with application refers to the site context, including building typologies. Design ensures that the development does not give rise to adverse impacts on residential amenities and is acceptable in terms of character and will be suitably integrated.

Flood Risk Assessment report notes that flooding of the 'Dropping Well' car park occurred in 2007 but that a number of defence assets have been installed in the interim. Under the CFRAM study maps the site is outside the 0.1% AEP fluvial flood extent.

Water Services Report states that surface water discharge from the site will be reduced.

James Horan Architectural Illustration provides a number of photomontages.

3.0 PLANNING HISTORY

V/137/15 is a certification of exemption under Part V of the PDA 2000 as amended.

PAC/487/14 refers to a pre-application consultation – advice given refers to need to comply with development plan standards including in relation to outdoor space the bulk of which should not be in the form of balconies. Concern in relation to light and ventilation at 1B.

Planning Reg. Ref. D03B/0037 refers to permission granted for modification to house including conversion of attic.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Report dated 19th January 2016 of the **Case Planner** notes:

- policies under DLRCDP 2010-2016
- 11m rear garden requirement need not be strictly adhered to in the absence of directly opposing rear first floor windows
- site at bottom of a hill about 1.5m lower than no. 2
- having regard to setbacks and site levels will not be overbearing on no. 2
- use of angled windows and privacy screens noted – additional screen recommended
- new boundary stepped wall / with hardwood railings above it to be positioned along northern boundary and of maximum height of 2.7m
- will not unduly overshadow or detract from residential amenity
- existing dwellinghouse has different design, style and height
- contemporary design is a departure from the dwelling styles immediately adjoining the site
- design approach assists in visually reducing overall massing
- proposal to retain vegetation and boundaries noted
- above 1 in 1,000 year flood
- development is sensitively designed and is acceptable.

Report dated 16th December 2015 of **Drainage Planning** recommends an alternative proposal be submitted regarding disposal of surface water.

Report dated 18th December 2015 of **Irish Water** recommends conditions.

4.2 Planning Authority Decision

The Planning Authority decided to grant permission subject to conditions including:

- provision of a privacy screen along the south/south-eastern boundary of the balcony at second floor level on south-western elevation of 1B
- development, which would normally be exempted under Class 1 / Class 3 shall require permission.

5.0 GROUNDS OF APPEAL

The appeal by the owner / occupier of 1A Churchtown Road Lower refers to:

- character – will not be readily assimilated – policy AR11
- design – overly dominant and of excessive bulk and scale – poor relationship with adjoining buildings and river and park
- balcony and external stairs on northern elevation visually dominant and physically intrusive
- overdevelopment in context of adjacent properties
- reliance on balconies to meet guidelines is at variance with area
- size, height and massing would have an unacceptably adverse impact on amenities of 1A Churchtown Road Lower
- block evening sun to main living space of 1A which has north and west facing windows – photographs refer
- dominate the skyline and obscure evening sunlight and be overbearing
- outline of building shown
- impact on 1A not fully assessed in application and no photomontage presented from north
- sunpath drawings and calculations enclosed which assess the impact on west facing living room which receives sunlight from 1800 to sunset and which period is substantially reduced (by up to 60%)
- would create additional hazard on steep hill close to junction
- insufficient manoeuvring space, which will lead to reversing out of 1B.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The Planning Authority states that the development is acceptable in terms of design and private open space. Regarding 1A the Planning Authority notes the location of the private garden associated with the appellant's house.

6.2 First party response

The first party submission notes:

- high quality contemporary architectural design is encouraged
- the development will respect and maintain the ridgeline and the three storey height can be accommodated
- form and massing carefully sculpted to protect residential amenity
- this includes set-backs at each level, angled windows and privacy screens
- will form a visually interesting bookend
- design ensures will not be visually overbearing
- the planner noted that private open space standards are met
- figure 2.6 shows a more comprehensive contextual rear elevation and shows the appellant's house in blue and demonstrates that the development will not result in a significant additional visual impact or overbearing on the appellant's house
- the closest two storey element is a minimum of 31m from the appellant's north-west facing bay windows and is unlikely to have a significant impact in terms of overshadowing
- shadow study enclosed demonstrates that the proposed development will not have a materially detrimental effect on the appellant's property
- there is no requirement that cars can be turned within the driveway and the arrangements proposed are standard throughout the Dublin suburbs.

6.3 Further comments

The development is within a zone of archaeological interest. The Board invited comments from relevant prescribed bodies. No response was received.

The first party response to the appeal, which included a shadow study was circulated to the appellant and the Planning Authority – no further comments were received.

7.0 POLICY CONTEXT

The Dun Laoghaire Rathdown Development Plan 2016-2022 was recently adopted.

The following are relevant policies and standards:

- houses in side gardens will be considered in accordance with a range of criteria set out in section 8.2.3.4(v) including parking for existing proposed houses and a level of visual harmony
- on larger corner sites there may be more scope for variation in design
- in certain areas a modern design response may be more appropriate in order to avoid a pastiche development.

8.0 ASSESSMENT

I consider that the main issues in this appeal relate to:

- principle of development
- design
- traffic
- other issues.

Principle of Development

The development provides for two substantial houses in an area well served by amenities including public open space, public transport, commercial and community facilities. In principle this is a suitable location for more intensive residential development. I am satisfied that the proposed development of 2no. three-storey houses at this location is acceptable in terms of the prevailing planning policy and standards.

Residential Amenity

Future occupants of no. 1 and 1B

The proposed houses at 210 square metres and 173 square metres each, together with a range of garden and patio spaces and forecourt parking to the front would provide for the residential needs of future occupants. While the pattern of development in this area is such that gardens are the main form of open space, I note that both houses would be provided with garden areas (minimum of 40 square metres) and that the balcony spaces are additional. Further I note that large areas to the front are available and that these may provide for bin / other storage as well as car parking. I agree with the conclusion of the Planning Authority that the development proposed is adequate in terms of private open space provision. The internal layout and overall living environment is of good quality. The smaller size of house 1B is more than compensated for by the roof treatment and height of the single storey element, which will ensure daylight enters into the deep building. Regarding overlooking between the two proposed houses, I refer also to the use of angled windows and obscure glazing and proposals for screening. I consider that the development is acceptable in terms of the residential amenity afforded to future occupants.

Impact on existing houses no. 1A and no. 2

The impact on the amenities of the existing houses is subject of the third party appeal which refers to the scale, height and massing and its impact on the house at 1A to the rear. Overshadowing is also deemed to be a significant potential issue.

I agree with the first party that the site contours are such that the three storey house can be accommodated. When viewed from the rear (south-east) the new houses would not exceed the existing in terms of height and the roof profile, massing and mix of materials would all assist in reducing the apparent scale of the new development. The buildings would be viewed as a series of small elements and while the scheme is of contemporary design it also clearly reads as a residential property. As such it would not be out of character with the rear of the existing residential buildings.

Regarding the impact of 1B on the appellant's house I note that the first floor is set back and that the second floor is further recessed. The main balcony is to the front and overlooking to the rear is not significant as glazing is generally obscure or high level and the

separation distance to the two-storey elements for example is over 30m.

The impact of house no. 1 on the appellant's is less than the above due to the greater distance, proposals for screening and other design features. In general large paned windows are to the north, overlooking the park and windows at the rear are angled to ensure no overlooking. I do not consider that overlooking of the private laneway is a material issue.

The appellant has presented considerable detail in terms of daylight impacts. The first party submissions in response present a shadow study. The latter in my opinion is more useful and together with the layout of the proposed buildings I am satisfied that no significant overshadowing arises. In this regard I note the comments made regarding the existing trees, boundary details and the Planning Authority comments regarding the location of the private open space at no. 1A, which is not impacted.

I note that the level of the proposed house would be below that of no. 2 to the south. The application drawings indicate that a new 1.8m high boundary wall will be constructed at this location. While the finished floor level of the single storey rear extension at house 1B would be below that of the existing house, the proposals for screening need to be clarified to minimise views between the gardens. I consider it advisable that the Planning Authority be given considerable latitude on this issue. I refer to the detailed planning condition recommended by the Planning Authority relating to the southern balcony, which I consider should be re-iterated.

Subject to conditions I consider that the development would not give rise to overlooking or overshadowing or be visually obtrusive when viewed from no. 1A or from no. 2 Churchtown Road Lower. I conclude that the development would not give rise to significant adverse impacts on the residential amenities of existing houses and would provide for the needs of future occupants.

Design

The parties dispute the suitability of the design approach. I agree with the Planning Authority that the development plan policies provide for contemporary design approaches and I consider that the

proposal is acceptable in the context of the corner site and the wide expanses of parkland from which the scheme would be viewed. The applicant's submissions in my opinion provide sufficient justification of the scheme and I agree that it is well designed and can be suitably finished to provide a high quality scheme which will complement the area. In terms of the height and character of the development I am of the opinion that the first party submissions clearly demonstrate that the immediate and wider context contain a variety of building heights and types and that the development can be satisfactorily assimilated into the area.

Traffic safety

The appellant has raised concerns relating to the ability to manoeuvre two large cars in the forecourt of house 1B and the likelihood that reversing onto the main road will result. I consider that the proposal, which complies with the sightlines set out under DMURS and will give rise to a low level of additional traffic would not be considered to constitute a traffic hazard. In this regard I take into account also the comments by the first party including in relation to the level of similar arrangements at other houses.

Other issues

The Flood Risk Assessment report and other engineering reports refer. The proposed development can be adequately serviced, is not within a flood risk area and reasonably complies with policy to retain surface water within the site.

Appropriate Assessment

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

9.0 RECOMMENDATION

I consider that the proposed development should be granted permission for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

Having regard to the nature, extent and design of the development proposed, to the general character and pattern of development in the area and to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not be out of character with 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 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 following shall apply in relation to boundary walls and screens:
 - (a) a privacy screen shall be installed along the south-eastern side of the second floor balcony at the south-western elevation of house 1B
 - (b) the rear garden of house 1B shall be separated from the rear garden of no. 2 Churchtown Road Lower by a concrete block wall of 1800mm height as measured from the lowest point of any adjacent lands, unless otherwise agreed in writing with the Planning Authority.

Prior to the commencement of development, detailed drawings shall be submitted to, and agreed in writing with, the planning authority in accordance with this requirement.

Reason: In the interests of residential and visual amenity.

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

Reason: In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the houses, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

5. 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.

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.

Mairead Kenny
Senior Planning Inspector
9th May 2016