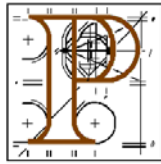


An Bord Pleanála



Inspector's Report

Application Ref.: PL29S.246259

Development: Single-storey two bedroom dwelling at rear of St. Joseph's, 35 Rathdown Park, Terenure, Dublin 6W.

Planning Application

Planning Authority: Dublin City Council

Planning Authority Reg. Ref.: 4154/15

Applicant: Joe Doody

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): David & Nicola Quirke

Type of Appeal: Third Party V Grant

Observers: Gavan & Carol Walsh
Terenure Residents Associate

Date of Site Inspection: 24th May 2016

Inspector: **Kenneth Moloney**

1.0 SITE DESCRIPTION

The appeal site is located within Rathdown Park which is an established suburban housing development. The character of the local area is strongly residential in terms of use and the local character is defined by sizeable two-storey detached and semi-detached suburban dwellings with large back gardens.

No. 35 Rathdown Park is a corner semi-detached dwelling and the side of the appeal site adjoins Templeogue Road.

No. 35 has two small single storey extensions to the rear and the garden, to the rear, comprises of some mature planting and some garden structures. The rear boundary of the garden adjoins a driveway of a single storey of house.

The neighbouring property to east is no. 33 Rathdown Park is similar to the existing house on the appeal site.

2.0 PROPOSED DEVELOPMENT

- The proposed development is for construction of new single storey pitched roof, 2-bedroom dwelling to the rear of existing house.
- The floor area of the proposed house is 97 sq. m.
- The private open space provision is 65 sq. m.
- The house has a single aspect orientation.
- A new gated vehicular entrance off Templeogue Road

3.0 PLANNING HISTORY

- L.A. Ref. 09/2324 – Permission **refused** for a part single storey and part two-storey 2 bedroom house. Reasons for refusal included (a) the proposal would not integrate sufficiently and would be out of character with the area, (b) substandard level of private open space and represent over development of the site, and (c) set an undesirable precedent for other such development.
- L.A. Ref. 1966/6 – Permission refused for new two-storey townhouse.

4.0 PLANNING AUTHORITY'S DECISION

4.1 Reports

Planner's Report:

- Site has a refusal for a part single storey / part two-storey house.

- Open space provision is 65 sq. m.
- Dwelling measures 97 sq. m. which is above minimum of 80 sq. m.
- Site coverage is 40% lower than required 45%.
- Plot ratio is 1:0.4 lower than 0.5 – 2.0 in Z2 areas.
- Car parking provision is acceptable.
- No detrimental impact on neighbouring properties.
- There will be some impact on no. 35.
- However concerns in relation to overlooking / overshadowing not serious given the 2.8m height.
- Proposal acceptable in line zoning objective.

Internal Reports: There are two internal reports on the file:

- Drainage Division: - No objection subject to conditions.
- Roads Streets & Traffic Division; - No objections subject to conditions.

Objection: There are five third party objections on the planning file and the issues raised have been noted and considered.

Submissions: There is a submission from Irish Water who has no objections to the proposed development.

4.2 Decision

The Planning Authority decided to **grant** planning permission subject to eleven conditions. The conditions are standard for the development proposed.

5.0 GROUNDS OF APPEAL

Manahan Planners, Town Planning Consultants, lodged a third party appeal on behalf of David and Nicola Quirke, 33 Rathdown Park, Terenure. The submission outlines the planning history, their clients objection to the local authority and the grounds of appeal. The following is a summary of the grounds of their appeal.

Introduction

- It is submitted that 5 no. submissions were made to the planning authority.
- However the local authority report only refers to 3 no. submissions.
- The submission from Terenure Residents Association was lodged on time but not factored into the original report.
- The Local Authority responded and amended the original report and uploaded a new planner's report with submissions amended from 3 to 5.

- It is a concern that the planners report is amended 3 – 5 weeks after decision.

Drainage

- The local area has experienced extreme flooding following prolonged rainfall.
- The proposal will reduce the amount of grass or permeable areas that serve as attenuation basins for rainwater. This will exacerbate any flood risk.
- The area of the site is currently 255 sq. m. and this leaves 65 sq. m. of private open space provision.
- The planner's report recommended that the driveway should comprise of permeable paving, however no condition to this effect is contained in the permission.
- Condition 3 (v) requires a flood risk assessment. It is contended that this flood risk assessment should be required prior to granting permission to determine the outcome.
- The decision to grant permission should not be granted in the absence of this assessment.

Road Safety

- The proposed access arrangements are likely to cause traffic build up as well as reducing road safety for other drivers, pedestrians and cyclists.
- The sightline provisions are inadequate due to a 1.7m high wall outside. The required sightline provision is 60m in either direction.
- The driver of any car is unlikely to see any traffic or pedestrians.
- Vehicles on the main road will not see cars exiting until very late.
- There is no consideration for existing lamp posts or road signage directly in front of the proposed exit.
- No road safety analysis has been provided.
- A planning application (L.A. Ref. WEB1241/15) for a new vehicular access at no. 23 Templeogue Road, (situated approximately 150m away from the subject site) was refused permission due to the creation of a traffic hazard.

Neighbourhood Character

- The proposed 1.7m high front wall is both a hazard in terms of road safety as well as being out of character with front boundary treatment of other dwellings that front onto Templeogue Road.
- The normal lower level walls allows for passive surveillance of the street and for social interaction between passer-by and residents as well as for traffic.
- The proposed dwelling is inconsistent with the established building line along Templeogue Road.
- The proposed property will be set back much further than existing properties to the north that front onto Templeogue Road and also those on the other side of the street.

- The established single storey houses in the area have low front boundaries and adequate sized back gardens.
- The proposal has no back garden and needs a high level wall to the front for privacy.

Boundary Treatment

- Chapter 17 of the City Development Plan states that a distance of 1.5m should be provided between gables and dwelling houses.
- It is considered totally unacceptable that the proposal should encroach up to the joint boundary.
- It is requested that permission is refused entirely.
- However should permission be granted then the provision of a separation distance of 0.75 m from the boundary wall should be a condition.
- This condition would be consistent with the development management guidelines and would reduce the visual impact of the proposed development.
- The separation distance could be used to provide for planting.
- It is submitted that no account is taken of the substantial pitched roof, raising the property to 5.2m for the entire 20m length.
- Also no account was taken of the very low chimney with conflicts with building regulations and is an environmental concern.

Set-back Distance

- The submitted site plan is outdated as neither the rear extension to no. 33 nor no. 35 Rathdown Park has been included.
- As such the separation distance between the proposed development and the existing development is insufficient.
- The development plan requires a minimum garden length of 11 metres whereas the proposal is less than that.
- The remaining small garden would be out of character with the Conservation Area.
- This reason was one of the refusal reasons in the 2006 application.

6.0 OBSERVERS

The following is the summary of an observation submitted by **Gavan & Carol Walsh** of no. 69 Templeogue Road.

Inappropriate Scale and Appearance

- The proposal is at odds with existing development and may set an undesirable precedent for one-off developments on a busy road.
- There are concerns, given that this is the third attempt to obtain planning permission that the applicants will try to extend the development in the future.

Visual Impact

- The proposal will extend significantly above the building line and is directly in front of the observer's house.

- The proposal will dominate the view from the observer's house.
- The proposal will eliminate a significant amount of green space and there is a concern as it may set a precedent resulting in a reduction of open space.

Traffic Congestion

- Given the limited space around the proposed dwelling it will mean vehicles will have to reverse out through the cycle lane onto the Templeogue Road.
- This would be a significant issue given the proximity of the VEC and Rathdown Park.
- In conclusion it is considered that the space for the proposed development is ill-suited to such a construction.

The following is the summary of an observation submitted by the **Terenure Residents Association**.

- We concur with the contents of the appeal submission that our objection and a second objection were not factored into the planners report.
- We agree with the residents of no. 33 Rathdown Park that the 5.2m height (not 2.8m) adjacent to the side of most of their wall will seriously diminish their amenity value of their back garden. This is considered an intolerable intrusion.
- It is considered that the proposed development is totally unacceptable and contrary to the Z2 zoning.
- There are concerns that should permission be granted that it would set an undesirable precedent that could lead to the destruction of the special character of the area.
- Previous applications for houses in side gardens, including no. 35, have all been refused.
- Tail backs are common place along the Templeogue Road. While there are existing entrances one additional entrance is not required.
- A recent application for a vehicular entrance at no. 23 Templeogue Road was refused permission.

7.0 RESPONSES

First Party Response

The applicant's agent submitted a response and the following is the summary of the response submission.

Precedent for past and future similar applications

Scale

- The proposal to the rear no. 35 Rathdown Park has addressed previous refusal reasons.

- The proposal is in keeping with the scale of adjoining properties.
- The proposal is similar in scale and height to no.'s 38 – 40 Templeogue Road and is suitably scaled and modest in relation to the houses along Rathdown Park (see contextual elevation).

Pattern

- There is no consistent pattern of development in the local area.
- No. 35 – 37 Templeogue Road are parallel to the street while no. 38 – 40 are askew to the road. Rathdown Park houses are perpendicular to Templeogue Road with only no. 35 and 41 siding onto the street.
- Similar patterns occur on the western side of the road.
- The proposed development does not interrupt or injure the character of the area or conflict with the Residential Conservation Area.

Residential Amenities

- The proposal is consistent with Dublin City Council Development Plan for infill sites and residential development standards in terms of dwelling layout, room sizes and private open space.

Undesirable Precedent

- The proposal is not contrary to the proper planning & sustainable development and meets the development criteria set out in the City Development Plan and the DOE guidelines.
- The proposal will not set a precedent for similar developments as the only other property with similar potential for this entire stretch of Templeogue Road is no. 41 Rathdown Park. It is not considered that the proposal will open way for a proliferation of similar developments.

Decision 2129/10

- This application was over 6 years ago and is not comparable to no. 35 Rathdown Park.

Zoning – Residential Conservation Area

- The proposal is consistent with Z2 zoning status for the area.
- The building is modest in scale and not visually obtrusive.
- The proposal is similar in scale and to the use of materials to adjacent properties, i.e. no. 38 – 40. Templeogue Road.
- The proposed height, scale and finishes are in keeping with those of the immediate surroundings.

Conflict with existing pattern of development

- There is no strict pattern of development in the immediate area.
- The proposal is respectful to the existing 'stringer' built house to its south in terms of scale and finishes.
- The proposal is modern and it is not proposed to create a form of pastiche architecture.
- The proposal has no negative impact on the existing pattern of development in the area.

Overshadowing / Overlooking

- Limited shading will occur as a result of the proposed development.
- The garden of no. 33 Rathdown Park is 35m long and the proposal is located to the north east of no. 33 Rathdown Park.
- The low westerly light is interrupted by the existing houses on Templeogue Road.
- It is contended that no. 33 will shade its own rear garden more than the proposed development.
- The existing mature trees and hedgerow along the boundary between the properties impacts on sunlight.
- There will be no loss of natural light to the rear of no. 33.
- The omission of the recent extension to the rear of no. 33 has no bearing.
- The ridge height of 5.2m is 3.1m away from the boundary wall.
- The proposal will not undermine the existing boundary wall.
- The proposal will enhance privacy for no. 33 by preventing overlooking from passengers from the upper floor of Dublin Bus.
- It will also reduce noise levels from traffic from Templeogue Road.
- The views enjoyed from the first floor of no. 33 will still remain over the garden of no. 33 and the proposal will not interrupt these views.
- Privacy is not compromised as the proposal will not overlook no. 33 Rathdown Park.

Endangering Public Safety

- Clear sightlines of 100m are available in both directions at 2m back from the footpath / road edge.
- The Roads Engineers are satisfied with the proposed development.
- The site is over 20m away from the VEC.
- The site layout allows for the car to turn around within the site without having to reverse out onto the main road.

Overdevelopment of the existing site

- The internal floor area and the private open space provision has regard to development plan standards.

Drainage Impact

- The applicant has confirmed that the site does not experience flooding.
- The proposal is consistent with the Greater Dublin Regional Code of Practice for Drainage Works.

Architectural Observations

- Roof lights are illustrated on the drawings.
- Drawing no. 15.07.201.P1 has contextual elevation showing adjoining building heights.
- Drawing no. 15.07.201.P1 show the entrance Drawing no. 15.07.202.P1 shows it in plan.
- Natural surveillance of the public footpath is not a requirement.
- This is a controlled urban environment. Most of the existing entrances cannot have a 3m set back from the road edge.

- Drawing no. 15.07.201.P1 shows the pole that is close to the entrance. There is no signage providing any obstruction.
- The single storey conservatory to the rear of no. 35 Rathdown Park is shown on the application drawings.
- The recent extension to the rear of no. 33 Rathdown Park does not impact on the information provided.
- The site coverage is closer to 43%.
- The appellant has not confirmed how the chimney is not in compliance.

Response to Grounds of Appeal

Drainage

- As the residents of no. 31 are not party to the appeal their comments should not be considered.
- The proposal is consistent with the Greater Dublin Regional Code of Practice for Drainage Works.

Road Safety

- The boundary wall along the Templeogue Road is not a proposed boundary wall.
- This wall is an existing wall and the new entrance will be formed in this wall.
- The lamp post, not directly in front of the proposed entrance was shown on the application drawings.
- The application referred to as having been refused for a vehicular entrance is situated closer to Teneure Village where traffic congestion is considerably closer.

Neighbourhood Character

- The existing wall is in situ and maintaining it is part of the existing character of the area.

Boundary Treatment

- It is submitted that the section of development plan referred to in the appeal is inaccurate.
- This section of development plan relates to gables of houses.
- The suggested set-back of 0.75m would seriously compromise private open space provision.
- The planting as suggested would undermine the house and boundary wall foundations and would also shade the garden of no. 33.
- The height of 2.8m is next to the boundary wall whereas the ridge of 5.2m is 3.1m away from the boundary line.

Set-back distances

- The separation distance between the proposed house and the main rear walls of no. 33 and no. 35 is 11m.
- However while the 11m rule of thumb is generally used for back to back measurements. It is used to ensure that there is 22m between opposing windows in housing developments.

- In the proposed development there is a no window which faces no. 33 and 35 and the buildings do not directly oppose one another.
- The first floor windows of no. 33 and 35 are 11m from the single storey blank end wall of the proposed dwelling.
- The retained rear garden for no. 35 will be approximately 150 sq. metres and the front garden will be 60- 70 sq. metres.
- The site area of no. 35, after development of the proposed development, will be similar to no. 21, 23, 25 and 27 Rathdown Park.

Conclusion

- It is intended that the proposed single storey house will be used by the occupants of no. 35 as they wish to downsize.
- No. 35 will be occupied by one of the applicant's children and their family.
- An Bord Pleanala are requested to up hold the grant of permission.
- However the applicant would be willing to alter as follows should An Bord Pleanala consider it necessary;
 - reduce eaves height by 300mm to 2.575m
 - reduce ridge height by 400mm to 4.8m
 - omit chimney and flue from the dwelling design.

8.0 POLICY CONTEXT

7.1 City Development Plan

Dublin City Development Plan, 2011 – 2017, is the operational Development Plan.

- The zoning of the appeal site is 'Z2' which has an objective 'to protect and /or improve the amenities of residential conservation areas'.
- Section 17.9.7 relates to Infill Housing.

7.2 National Guidelines

DoEHLG 'Sustainable Urban Housing: Design Standards for New Apartments', 2007

These guidelines provide recommended guidance for internal design standards, storage areas and communal facilities, private open spaces and balconies, overall design issues and recommended minimum floor areas and standards.

9.0 ASSESSMENT

The main issues to be considered in this case are: -

- Principle of Development
- Residential Amenities
- Impact on Residential Amenities

- Impact on Character of Area
- Access
- Appropriate Assessment
- Other Issues

Principle of Development

In considering the principle of the proposed development it is important to note both the established use and the pattern of development in the local area in addition to the zoning objective for the appeal site.

The character of the local area is strongly residential in terms of use and the local character is defined by sizeable two-storey detached and semi-detached suburban dwellings with large back gardens.

On the basis of my site inspection I would note that much of the back gardens in the immediate area are in tact.

I would note that the appeal site and the immediate area is zoned Z2 which is 'residential conservation' in accordance with the provisions of the Dublin City Development Plan, 2011 – 2017.

The proposed development will provide for a single storey house in the rear garden of an existing two-storey semi-detached house. The side of the appeal property adjoins Templelougue Road and it is proposed that vehicular access to serve the proposed house will be onto Templeogue Road.

A previous planning application on the appeal site to provide for a part two-storey and part single-storey house was refused permission by the City Council on the grounds of (a) poor integration with the character of the area, (b) substandard private open space provision and (c) the proposal would set an undesirable precedent.

Overall I would consider that a residential unit in the rear garden of no. 35 Rathdown Park is challenging given the proximity to established residential amenities however the zoning objective is residential and the established pattern of the development is residential.

Residential Amenities

In determining the residential amenities for the future occupants of the proposed development I would have regard to the internal floor space of the individual residential unit, private open space provision, and the orientation and aspect of the proposed unit.

Floor Area

In terms of residential amenities for future occupants I would note that the floor area of the proposed two-bedroom house is 97 sq. meters and this exceeds the minimum floor area as required in the City Development Plan.

The minimum required floor area for a two-bedroom unit in accordance with Section 17.9.1 of the City Development Plan is 80 sq. m. The minimum recommended floor area for two-bedroom residential units in the DoEHLG 'Sustainable Urban Housing: Design Standards for New Apartments', 2007 is 73 sq. metres.

Open Space

In accordance with the provisions of the City Development Plan the minimum private open space required is 15 sq. m. per bed space. In the proposed development there are four bed-spaces and the minimum required private open space 60 sq. m. The proposed private open space provision is 65 sq. metres and this exceeds the minimum required in the City Development Plan.

Aspect & Orientation

The proposed single storey house has a single aspect and the orientation is north-west facing. I would note that single aspect dwellings offer a substandard amenity to dual aspect residential developments. I would acknowledge that the proposed house would receive sunlight however in the winter months it would be limited given the orientation of the proposed house.

Impact on Residential Amenities

I would acknowledge that the most significant impact that the proposed development will have on established residential amenities is the impact it will potentially have on no. 33 Rathdown Park. I will now examine whether this impact on no. 33 Rathdown Park would adversely impact on their established residential amenities.

I noted from a visual observation that both no. 33 and no. 35 Rathdown Park have long rear gardens and both properties have single storey extensions to the rear. The rear gardens of the said two properties orientate north-eastwards.

The rear elevation of the proposed house adjoins the common boundary line between no. 35 and no. 33 Rathdown Park. The approximate height of the common boundary line is currently 1.6 -1.7 metres above ground level and the eaves height of the proposed house, adjoining the common boundary line, is approximately 2.9 metres. The roof pitch height of the proposed house is approximately 5.2 metres. I would acknowledge that the applicant has suggested minor modifications to address any concerns.

The proposed house also includes 5 no. velux roof windows facing towards the appellants rear garden. The length of the proposed rear elevation is approximately 19.3 metres. Notwithstanding the significant length of the rear garden to no. 33 Rathdown Park I would consider that the proposed single-storey house which is positioned right up against the boundary line would create an overbearing and visually obtrusive feature in the context of adjoining property.

I would note that the remaining private open space for the future occupants is no. 35 Rathdown Park is 152 sq. metres which is an acceptable level of amenity. The southern elevation of the proposed house is set back approximately 10.5m to 11m from the original rear elevation of no. 35 Rathdown Park. The width of the proposed southern elevation is approximately 6 metres. I would consider that the proposed southern elevation would impact on the established residential amenities of no. 55 RP however given the size of the remaining rear garden (152 sq. m.) I would consider any impact acceptable.

I therefore consider, having regard to the proposed layout and positioning of the rear elevation right up against the adjoining boundary line of the adjoining residential property to the side of the appeal site, that proposed development would have an overbearing impact, would be visually obtrusive, and would seriously injure the residential amenities of the adjoining property. I would consider that the proposed development has not adequately addressed refusal reason no. 1 of L.A. Ref. 09/2324.

Impact on Character of Area

The appellants argue that the proposed development will impact on the character of this Z2 'Residential Conservation Area'. The proposed development will retain the existing high level wall and therefore the front garden will be blocked from public view which it is argued is out of character with the local area.

I would accept that generally front gardens in the local area have low-rise walls however I would not consider that the retention of the existing high level wall would adversely impact on the character of the area. I also noted from my site inspection that there are single storey terraced houses located immediately to the north of the appeal site and in my view the proposed development would be consistent with the established character of the area.

The high level wall will protect the proposed private open space provision and create a defensible space for the proposed house. I would not concur with the appellant on this argument.

Access

I noted from a visual observation of the area that the sightline provision from the proposed vehicular entrance in both directions is generally good.

I note that the traffic on Templeogue Road is constant however I noted from a visual observation of the area there are many established vehicular entrances, in the immediate area of the appeal site, onto Templeogue Road, and it is my view that an additional vehicular entrance would not be a significant issue.

Appropriate Assessment

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

Other Issues

I would not consider on the basis of the information on the file and a visual observation of the area that the proposed house would result in any significant additional run-off water. I would note that the Drainage Division of the City Council has no objections to the proposed development. In conclusion I would not consider that the proposed development would be a concern in terms of flood risk.

10.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be refused for the reason set out below.

REASONS AND CONSIDERATIONS

1. It is considered that the proposed house by reason of its layout and positioning of the rear elevation right up against the adjoining boundary line of the adjoining residential property to the side of the appeal site, that the proposed development would have an overbearing impact, would be visually obtrusive, and would seriously injure the residential amenities of the adjoining property. As such the proposal would detract from the amenities of adjoining property, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed development would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
25th May 2016