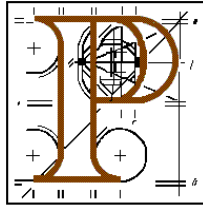


An Bord Pleanála



Inspector's Report

Development: Construction of a single storey sunroom extension and associated works.

Location: 101 Finglas Road, Finglas East, Dublin 11.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 2109/16
Applicant: Rimantas Usas
Type of Application: Permission
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant: Rimantas Usas

Type of Appeals: 1st v Refusal
Date of Site Inspection: 1st June 2016
Inspector: Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is situated at 101 Finglas Road, Finglas East, Dublin 11, close to Finglas village. The site is located at the end of a terrace of two storey houses which are higher than the road and which each have a private surfaced parking area adjoining the road and a sloping garden and stepped access from this area to the house. Finglas Place, adjoining to the south east rises northwards and the dwellings closest to the junction with Finglas Road are at a lower level than the subject dwelling.
- 1.2 The existing house is 136.1 sq m. and was previously extended.
- 1.3 The site area is given as 338.7m².

2 PROPOSED DEVELOPMENT

- 2.1 The proposed development comprises the construction of a single storey sunroom extension, to the rear of the dwelling, with a tiled pitched roof and finishes to match the existing dwelling; and associated works.
- 2.2 The floor area is given as 24.8m².

3 PLANNING AUTHORITY DECISION

- 3.1 The planning application was lodged on the 26th January 2016.

Technical Reports

- 3.2 Engineering Department Drainage Division – 23/2/2016 – conditions.

3.3 Planning Report 21/3/16 – zoned Z1 to protect provide and improve residential amenities; recommending refusal, citing section 17.9.8 and appendix 25 of the Dublin City Development Plan 2011-2017.

3.4 The planning authority – 22/3/2016 - decided to refuse permission for the reason:

Having regard to the established pattern of development in the area it is considered that the proposed development results in the erosion of the usable private open space area at No 101 Finglas Road which would be contrary to the Development Plan standards for private residential open space areas as set out under par. 17.9.1 (A3) of the 2011-2017 City Development Plan. The proposed development would therefore be detrimental to the future residential amenity of that dwelling and it would set a precedent for excessive site coverage and overdevelopment on domestic residential sites in this area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.5 The decision was in accordance with the planning recommendation.

4 PLANNING HISTORY

2715/12 – permission granted for 1) the conversion of the existing attic space for use as a study/store room, incorporating 1 no. window to gable wall, 1 no. velux window to the rear and 1 no. dormer window with flat roof & timber cladding to rear of existing dwelling; 2) a new bay window and porch to the front of existing dwelling with a tiled hipped roof above. All finishes to match existing house.

5 GROUNDS OF APPEAL

5.1 Mr Rimantas Usas, has submitted an appeal against the refusal of permission.

- 5.2 The grounds can be summarised as follows: the first party believes that the proposed development will meet all the requirements of para 17.9.1 o(A3) of the City Development Plan: 56 sq m of private open space to the rear and side of the house will remain; the development is designed to preserve the amenities and privacy of adjacent occupiers; and the design of opposing windows has them carefully positioned to prevent overlooking with shorter back-to-back distances and the garden design and boundary walls substitute that requirement. The first party advances other arguments as to why the development is proposed: unsuitability of the back garden for amenity use for half the year with damp and lack of sunlight; and the accommodation needs of the household, including his requirement, as an amputee, to have fitness equipment. In support of the appeal, examples of extensions which occupy significant proportions of their sites- are advanced as precedent; and photographs of the property are supplied.

6 RESPONSES

- 6.1 The Planning Authority has not responded to the grounds of appeal.

7 POLICY CONTEXT

- 7.1 **The Dublin City Development Plan 2012 – 2018** is the operative plan.

- 7.2 Chapter 17 Development Standards includes:

Extensions and alterations to dwellings - The design of residential extensions should have regard to the amenities of adjoining properties and in particular the need for light and privacy. In addition, the form of the existing building should be followed as closely as possible, and the development should integrate with the existing building through the use of similar finishes and windows. Applications for planning permission to extend dwellings will be granted provided that the proposed development:

- Has no adverse impact on the scale and character of the dwelling
- Has no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight

Private open space for houses is usually provided by way of private gardens to the rear or side of a house. A standard of 15sq.m of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Rear gardens and similar private areas should: be screened from public areas, provide safe and secure play areas for children, be overlooked from the window of a living area or kitchen, have robust boundaries; and not back onto roads or public open spaces.

Appendix 25 - Proposals should:

- Not have an adverse impact on the scale and character of the dwelling
- Have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight
- Achieve a high quality of design.

7.3 **Sustainable Residential Development in Urban Areas, 2009**

7.4 All houses (terraced, semi-detached and detached) should have an area of private open space behind the building line. The area of such private space will be influenced by the separation between buildings and plot widths.

7.5 **Planning Guidelines Sustainable Urban Housing: Design Standards for New Apartments**, Department of the Environment, Community and Local Government, December 2015

Minimum floor area for a single bedroom is 7.1 sq m

Minimum floor area for a double bedroom is 11.4 sq m.

Minimum private amenity space per apartment based on number of bedrooms: 5 sq m for 1 bedroom 9 sq m for 3 bedrooms

7.6 **Development Contribution Scheme 2016 – 2020**, Dublin City Council.

Rate to be applied: €86.40 per square metre of Residential Development, fixed from 1st January 2016 to 31st December 2017.

Exemptions and reductions - the following categories of development will be exempted from the requirement to pay development contributions under the scheme: the first 40sq meters of extensions to a residential development (subsequent extensions or extensions over and above 40 square meters to be charged at the residential rate per square meter). (The previous extension exhausted this exemption.)

8 ASSESSMENT

8.1 The main issues which arise in relation to this development are Development Plan standards, the amenity of the residents, and appropriate assessment and the following assessment is addressed under these headings.

8.2 Development Plan Standards

8.3 The reason for refusal states that there would be an erosion of the usable private open space area which would be contrary to the Development Plan standards for private residential open space areas as set out under par. 17.9.1 (A3) of the 2011-2017 City Development Plan and would set a precedent for excessive site coverage and overdevelopment on domestic residential sites in this area.

8.4 In the grounds of appeal the first party states his belief that the proposed development will meet all the requirements of para 17.9.1 (A3) of the City Development Plan: 56 sq m of private open

space to the rear and side of the house will remain; the development is designed to preserve the amenities and privacy of adjacent occupiers; and the design of opposing windows has them carefully positioned to prevent overlooking with shorter back-to-back distances and the garden design and boundary walls substitute that requirement.

8.5 Based on the Development Plan standards of 15 sq.m of private open space per bedspace, with 7 bedspaces in the dwelling there would be a requirement for 103sqm of private open space, based on 3 double bedrooms and one single bedroom.

8.6 The Development Plan standards qualify this requirement by the statement that the standard will normally be applied and also by the statement that private open space is usually provided by way of private gardens to the rear or side of a house. In this case there is also a large amenity area to the front of the house. The area remaining post development to the rear and side of the dwelling is stated by the planning authority to measure 60 sq m and by the first party to be 56 sq m.

8.7 In relation to the application of these standards, in my opinion the application of such standards is necessary to protect the residential amenities of future residents of a speculative housing development where the identity of the residents and their needs are as yet unknown. In this case the application of standards must be balanced against the evolving needs of the actual residents. Therefore, notwithstanding that the proposed development of a stated floor area of 24.8m² would involve a loss of amenity outdoor space of the same extent, and would reduce the private amenity space to below the standards recommended in the Development Plan, I do not think that the Development Plan standards should be a reason to refuse permission.

8.8 **Amenity of the Residents**

8.9 No concern has been expressed by the planning authority regarding residential amenity of adjoining properties. The proposed extension is single storey and the area it overlooks is a private garden surrounded by high walls. The proposed development does not overlook adjoining property and in addition,

due to its height and the height of existing boundary walls, no issue of overshadowing arises. The part of the garden in which the extension is proposed is overlooked by first floor windows of dwellings close by at Fingal Place, (which will look onto the roof of the extension). The windows of the extension will not be overlooked.

- 8.10 The reason for refusal includes that the proposed development would be detrimental to the future residential amenity of the dwelling and that it would set a precedent for excessive site coverage and overdevelopment on domestic residential sites in the area.
- 8.11 The residential amenity of the subject house requires to be considered.
- 8.12 The grounds of appeal states that 56 sq m of private open space to the rear and side of the house will remain. It also states that the area at the front of the house is used as amenity space because it enjoys more sunlight, and it refers to the unsuitability of the back garden for amenity use for half the year due to dampness and lack of sunlight.
- 8.13 I am unable to agree that the back garden is unsuitable for amenity use. It seems to me to provide a valuable amenity space for the residents. However, in the reduced state post development it would continue to be a valuable amenity, giving visual contact with the outdoors to the extended ground floor area; as the open space provided by the rear garden runs along the site of the house, and the proposed extension will look onto this area.
- 8.14 The area of open space available to the residents will be reduced by 24.8m² but overall the site is quite large, including additional garden area behind the main building line and forward of the site entrance/shed; and a wide surfaced area to the front of the house. The proposed development is entirely enclosed by the garden walls and does not impact on the amenities of the area. In my opinion the dwelling, post development, would be adequately served by private amenity open space, would not impact on the established pattern of development or the character of the area.

8.15 **Appropriate Assessment**

8.16 The proposed development is an extension to an existing dwelling within a built up area of Finglas, where the development is served by public water supply and wastewater and surface water services. The nearest Natura sites are the North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), some 8km to the south east and separated from the subject site by the north of Dublin City.

8.17 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

8.18 Having regard to the nature and scale of the proposed development and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9 RECOMMENDATION

In accordance with the foregoing assessment, I recommend that planning permission be granted for the following reasons and considerations, and subject to the following conditions.

REASONS AND CONSIDERATIONS

It is considered that subject to the following conditions, the development as proposed, comprising a small extension to an existing dwelling to serve the accommodation needs of the occupants, would be adequately served by usable private open space, would not impact unduly on the character of the area, or conflict materially with the City Development Plan and would accordingly 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, 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 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.

3 The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

4 Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

5 The developer shall pay to the planning authority a financial contribution of €2142 (two thousand one hundred and forty two euros) 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. The application of any indexation required by this condition 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.

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.

Dolores McCague
Inspectorate

Date

Appendix 1 Map and Photographs

Appendix 2 Extracts from the Dublin City Development Plan 2011 - 2017