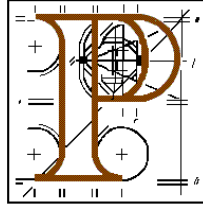


An Bord Pleanála



Inspector's Report

PL06D.246566

DEVELOPMENT:-

Two-storey extension to rear and front of existing house and new lobby/porch to front, roof lights, minor elevation alterations, internal works and all associated site and development works at 'Trust Cottage', 2 Old Bray Road, Cabinteely, Dublin 18.

PLANNING APPLICATION

Planning Authority: Dun Laoghaire Rathdown County Council
Planning Authority Reg. No.: D16B/0061
Applicant: Jennifer and Stephen Campion
Application Type: Permission
Planning Authority Decision: Grant Permission

APPEAL

Appellant: Marion Redmond
Type of Appeal: Third v Grant
Observers: None

DATE OF SITE INSPECTION: 19th July 2016

INSPECTOR: Mairead Kenny

SITE LOCATION AND DESCRIPTION

The application relates to a semi-detached house known as 'Trust Cottage', which is located off the Old Bray Road in Cabinteely, Dublin 18. This is a mixed area which contains a varied building stock including older period dwellinghouse and a large new residential scheme Brennanstown Square.

The stated gross floor area of the existing building is 87m². It is an attractive two-storey house finished with a pitched roof and is stated to date to the 1950s. The house was previously extended to the side and the adjoining house to the north has been substantially modified. The house has associated front, side and rear gardens and is surrounded by a block boundary wall.

The site adjoins a number of residential properties including a development called Cabinteely Wood to the south. The two adjacent houses at no. 2 and no. 3 Cabinteely Wood are positioned close to the boundary with the subject site, positioned at a right angle and at first floor level there are no directly facing windows onto the site. No. 3 has the most frontage onto the rear of the site and is at a lower level than the site (approximately 500mm lower). The rear garden is of triangular shape and when the planting beds are excluded is stated to be 48 m² in area. The main kitchen/dining window faces onto the site. There are views from the garden to the first floor rear and side facades of the applicant's house.

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

DESCRIPTION OF PROPOSAL

Permission is sought to develop a side, rear and front extension, which is mainly two-storey in nature. The stated gross floor area of the proposed works is 56m². The extension to the front is only 4m².

The application submissions include a Drainage Design Planning Report which briefly addresses engineering services and flood risk.

PLANNING HISTORY

Under Planning Reg. Ref. D94B/0704 permission was granted for an extension at the site.

Under Planning Reg. Ref. D04A/760 permission was granted for a development at the site to the south comprising 15no. residential units. This relates to the small estate now known as Cabinteely Wood. A condition on the permission restricted the provisions of the exempted development regulations.

PLANNING POLICY CONTEXT

The site is governed by the provisions of the Dun Laoghaire –Rathdown County Development Plan 2016-2022.

Under section 8.2.3.4 the policy relating to extensions to dwellinghouses acknowledges the potential for adverse impacts on adjoining properties and sets out the criteria to be taken into account including proximity and design details.

SELECTED INTERNAL AND OTHER REPORTS SUBMITTED TO PLANNING AUTHORITY

The **case planner's** report dated 11th April 2016 may be summarised as follows:

- the subject dwelling is in a relatively unusual position in the context of the layout, proximity and footprint of the adjacent development to the site – those houses have very limited private open space to the rear
- the extension is acceptable in the context of the existing dwelling being of sympathetic design and relatively modest in scale
- there will be a separation distance of 5.4m between the proposed extension and the ground floor of no. 3 Cabinteely Wood and there will be a degree of overbearing impact given the very limited space to the rear of that house
- however it is not considered that the extension is of such scale or to impact on the adjacent property so as to result in refusal.

The report of the **Drainage Planning Municipal Services Department** indicates no objections in relation to surface water drainage.

DECISION OF PLANNING AUTHORITY

The Planning Authority decided to grant permission subject to 12 conditions. Condition 4 refers to opaque glazing at first floor side elevation bathroom and en-suite windows.

GROUNDINGS OF APPEAL AND OBSERVATIONS

The grounds of appeal may be summarised as follows:

- the decision and the planner's report failed to realise a number of key points that are crucial to the assessment of the impact of the development
- these include condition 5 of the parent permission for Cabinteely Wood and the negative impact of the ill-considered design in terms of it being overbearing, giving rise to perceived overlooking and some loss of light and overshadowing

- the design and form of the existing houses at 2 and 3 Cabinteely Wood mitigated against overlooking and the nature and height of the extension taken together with the covered walkway (0.6m above the shared wall) and the difference in ground levels will negatively impact on the visual and residential amenity of the appellant's house
- the site is 12.5m wide at the rear garden and despite this the extension is positioned where it will have maximum negative impact on the appellant's house
- a more modest extension either single storey or fully to the side of the house would be acceptable in principle
- the extension would be visually dominant, overbearing and obtrusive when viewed from the appellant's property being only 5.2m from the kitchen window
- the proposal will impact on the existing sunlight levels near the rear of the kitchen in the late afternoon and will significantly impact also on no. 2, which would be devoid of light apart from a short period and would be contrary to BRE guidance
- contrary to the zoning and to the policy for extensions
- section drawing enclosed.

No observations were received.

RESPONSES TO APPEAL

The Planning Authority response notes:

- the relevance of condition 5 of PL06D.211014 which relates to the housing development to the south is queried
- the photograph on page 5 is of limited quality and value
- the planning report did not indicate that there is no existing overshadowing
- the impact on 2 and 3 Cabinteely Wood was taken into consideration.

The first party response notes:

- the setbacks of 1.66m from the common boundary and 5.4m from no. 3 are sufficient to ensure that the development does not present as overbearing
- the 1.8m boundary wall is sufficient to provide a sufficient level of privacy
- the modest proposal considers the remaining rear private open space of no. 3 due to the orientation and usability and set-back
- overlooking cannot occur and is addressed by condition and avoided by the orientation of the window of the main bedroom
- the ARC analysis enclosed indicates that there will be little or no change to daylight or sunlight access in rooms to the rear or on the private open space

- potential for overshadowing is limited to afternoons and evenings in Spring and Autumn only and the development complies with BRE
- condition 5 of the Cabinteely Woods permission has no bearing
- the proposal complies with the development plan policies including 8.2.3.4
- this type of arrangement is not unusual for an urban built up context.

Further comments submitted on behalf of the appellant in reply to the above are:

- the individual and collective impact of these works is unacceptable and will be overly overbearing
- the true impact is evidenced when the kitchen window at 3 Cabinteely Wood is considered – this is only 3.8m from the roof
- condition 4 does not adequately address the perception of overlooking, which is further compounded by the rear facing master bedroom window that faces onto the widest part of the appellant's small garden
- the applicant acknowledges that shadowing does occur in the equinoxes
- this is not a modest extension in the context of the site or the appellant's property or the size of the existing house
- the assessment of daylight has not taken into account the ground levels.

ASSESSMENT

I consider that the primary issues in this case are reasonably summarized in the appeal and relate to the impact of the development on the amenities of the houses at 2 and 3 Cabinteely Wood to the south of the site. The matter of compliance with the relevant section of the development plan also refers.

Residential amenities and development plan policy

The subject site differs noticeably from that of the house owned by the third party appeal particularly in terms of its spaciousness as well as in terms of the orientation. I agree with the appellant's submissions that the condition attached under the terms of the parent permission for the development Cabinteely Wood are noteworthy insofar as the restriction on exempted development provisions is a reflection of the relatively small site size and associated private amenity area. In such circumstances the need for careful consideration of the design of additional works is a reasonable requirement. I consider that this principle also applies to adjacent development.

Overbearing I consider that there are aspects of the proposed development which would be likely to impact on the visual and residential amenities of no. 2 and no. 3 Cabinteely Wood. Of these I consider that the most significant concern relates to the proximity of the proposed two-storey extension and covered walkway to the existing kitchen windows. There would also be clear views to the extension from the rear garden. At the time of inspection of no. 3, I noted that the view from the kitchen

window is dominated by the boundary wall and that there is a relatively restricted view only over the wall. The more typical arrangement of houses would afford occupants a longer view over a more substantial garden space. The difference in ground levels has been referenced in the appeal and is also a factor in this respect. The higher level of the adjacent house might be considered to exacerbate any overbearing impacts due to its mass and proximity.

I consider that the proposed development would further impede the views from the adjacent houses and would result in an outlook which might be considered overly enclosed. Taking on board the suggestion made in the appeal to omit the covered walkway by condition would partly mitigate this impact and protect some of the spaciousness of the existing outlook. The view from the interior of no. 2 would be mainly retained at the primary face of the kitchen window which overlooks the front of the adjacent house. On balance in terms of the outlook from the houses and from the rear gardens I am not convinced that the development proposed would be as detrimental to the amenities of the adjacent properties as to warrant a refusal of permission or amendment to single storey form. Omission of the covered walkway is however recommended.

I disagree with the submission of the third party that the appeal is ill-considered. I note that the two storey extension is set back significantly from the attached house to the north and that the amenities of that house are particularly well protected by the design of the scheme. I also note that the two-storey extension does not intrude into the direct view from the rear patio doors or extend significantly beyond the line of the western part of the bay window to the kitchen / dining area. The open aspect of part of the appellant's site would thus be largely unaffected.

I also reject the appellant's comments relating to the scale of the extension. While the new extension would constitute a significant increase in floor area relative to the existing house the resulting house would not be overwhelmed by the new build. The resulting house would not be described to be especially large or to dominate the subject site.

Overlooking Regarding overlooking and the perception of overlooking from the rear main bedroom window at first floor level I consider that the circumstances arising are not particularly unusual. There is an oblique view to the private rear garden area near the house, which is generally the most private and valued space in any residential development. Although the pattern of development and the relationship of the two houses is not common, the resulting relationship between the first floor window and the appellant's rear garden is quite typical. The circumstances arising including in relation to the side en-suite and bath room windows do not give rise to

significant overlooking and would not warrant a refusal of permission or amendment of fenestration. The standard condition regarding obscure glazing is recommended.

Overshadowing In terms of the overshadowing impacts I consider that the most convincing case is made in the submission of the first party in response to the appeal. This includes images which demonstrate that the spring and summer late afternoon overshadowing is marginally increased for a short duration. I note that the appellant refers to the lack of consideration of the different ground levels. However, if included that would also show a marginally increased degree of overshadowing of the existing conditions in addition. I agree with the appellant that the adjacent house at no. 2 Cabinteely Wood would be more affected by increased overshadowing in the evening and this is also demonstrated in the ARC report illustrations. Both daylight and sunlight are fully assessed by the consultants and I accept the conclusions that undue adverse impacts would not be anticipated having regard to the assessment undertaken and to the orientation of the proposed development.

Development plan The main requirements outlined in the development plan refer to the zoning objective and the protection of residential amenities and to the criteria set out in section 8.2.3.4. In determining applications for first floor extensions the Planning Authority will consider overshadowing, overbearing and overlooking along with the proximity, height and length of the extension. I have considered these matters above together with the totality of the policy outlined under section 8.2.3.4 which refers also to design, roof profile and external finishes and am satisfied that the proposed development would not have significant potential negative impacts on the amenities of adjacent properties and that the proposal complies with the development plan.

Appropriate Assessment

The nearest European Sites *Rockabill and Dalkey Island SAC* and *Dalkey Islands SPA* are designated for porpoise, reef habitat and tern species. Due to the distance from the site and the nature of the proposed development I am satisfied that there will be no impact directly or indirectly on the qualifying interests.

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.

CONCLUSIONS AND RECOMMENDATION

I conclude that the development would not significantly detract from the amenities of the adjacent houses and that it is acceptable in terms of visual amenities in general and that permission should be granted.

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 and would not be out of character with the area. 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, 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 covered walkway shall be omitted.

Reason: In the interests of residential amenities.

3. 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 house, without a prior grant of planning permission.

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

4. 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.

5. The first floor windows on the southern elevation shall be glazed with obscure glass.

Reason: To prevent overlooking of adjoining residential property.

6. 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.

7. 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

21st July 2016