



An
Bord
Pleanála

Inspector's Report PL06F.246707

Development	Single storey detached house in the existing side garden comprising removal of utility room to the side of existing house, relocation of side vehicular entrance and all associated works at Meadow Court, Millview Road, Malahide, Co. Dublin
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F15A/0476
Applicant(s)	Josephine O'Connor.
Type of Application	Permission
Planning Authority Decision	Grant
Appellant(s)	1. Joseph Condron
Observer(s)	1. None
Date of Site Inspection	25.08.2016
Inspector	Fiona Fair

Contents

1.0 Site Location and Description	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision.....	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
6.0 Development Plan.....	5
7.0 Appeal Grounds.....	6
8.0 Assessment.....	9
9.0 Recommendation	12
10.0 Reasons and Considerations	13
11.0 Conditions	13

1.0 Site Location and Description

- 1.1. The appeal site of stated 0.038 ha is roughly rectangular in shape and is located on the eastern side of Millview Road to the north of the entrance to Ard na Mara, in Malahide County Dublin. The surrounding area is characterised by mixed residential including semidetached two storey dwellings opposite the appeal site, detached dormer type dwellings to the south and east and two storey housing to the north.
- 1.2. The appeal site forms the side garden of an existing two storey detached dwelling. The host dwelling has a pitched roof and a mix of render and stone finish. There is a single storey garage located to the northern side of the dwelling and a single storey flat roofed extension to the southern side. The dwelling has a two storey porch feature to the front elevation. Parking for at least two cars is provided to the front of the dwelling. There is a vehicular access at the northwestern corner of the site to serve the existing dwelling and there is a secondary access to the side garden area from the southeastern corner of the site.
- 1.3. A neighbouring pitched roof bungalow (the appellants dwelling) is located to the rear (southeast) of the subject site. This dwelling is accessed via a driveway that runs to the south of the subject site. A separation distance of between 12 – 18 meters is available between the rear boundary of the site and this dwelling. The boundary with the neighbouring property, south eastern boundary, is defined by a hedge interspersed with a wooden fence, while a c. 1.8m high wall and gate define the front / western boundary along Millview Road. See photographs and location map attached as appendix to this report.

2.0 Proposed Development

- Single storey detached dwelling in existing side garden – 92 sq. m
- The development consists of the removal of a single storey utility room (15.6 sq m) to the side of the existing two storey house, Meadow Court,

- Relocation of the existing side garden vehicular entrance
- All associated works.

3.0 **Planning Authority Decision**

3.1. **Decision**

Fingal County council granted planning permission subject to 11 no. conditions.

Those of note are summarised below.

6. The boundary treatment shall be as indicated on Drawing MV09

10. Restricts hours of operation of construction from 8.00am – 7.00pm Mon – Fri and 8.00 am – 2.00pm on Saturdays.

3.2. **Planning Authority Reports**

The report of the area planner can be summarised as follows:

Following a request for additional information with respect to: Comparative levels between the subject site and the neighbouring dwelling. A section through the proposed dwelling. Details of proposed boundary treatment to the rear, front and side. Issues with respect to surface water drainage and water supply. And following a request for clarification of additional information with respect to surface water drainage and boundary treatment. The area planner albeit of the opinion that the principle of the proposal was acceptable, would not detract significantly from the residential amenity of the area should be refused as the applicant failed to address to the satisfaction of the planning authority the surface water requirements of this site.

A report of the senior planner typed 9th May 2016 however recommends that permission be granted. The report outlines that having spoken with the Water Services Section, that notwithstanding the report recommending refusal based on the plans submitted that there is no reason that a solution to surface water cannot be

found within the proposed site. Therefore the proposed development would not be prejudicial to public health subject to a condition requiring written agreement on the surface water solution for the site prior to commencement of development. I note condition 9 refers.

3.3. Other Technical Reports

Road Design – No objection subject to condition

Water Services – Recommends refusal on grounds of surface water disposal being inadequate

Irish Water – No objection subject to condition

3.4. Third Party Observations

An objection was submitted to the planning authority, the concerns raised are similar to the points raised in the 3rd party appeal summarised in detail below.

4.0 Planning History

None associated with the appeal site.

5.0 Policy Context

6.0 Development Plan

The appeal site is zoned 'RS' – 'provide for residential development and protect and improve residential amenity' in the Fingal County Development Plan 2011 – 2017.

There is an objective to provide a pedestrian / cycle route along Millview Road, which runs to the front / west of the site.

Objective OS35: Overlooking, seeks adequate private open space for each proposed dwelling, with a minimum standard of 22m separation between opposing first floor windows.

Objective OS38: Open Space Provision, seeks 60m² private open space behind the building line for 3 bedroom houses, or 75m² for 4 bedroom houses.

Objective OS39 states: *'Allow a reduced standard of private open space for 1 and 2 bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/corner sites. In no instance will the provision of less than 48 sq m of private open space be accepted per house'*.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Over development of a restricted site
- A granny flat would be more suitable on the site given the restricted site size.
- Request that a 2m high block wall be constructed between the new dwelling and the appellants existing dwelling, in order to protect the amenities of both properties.
- Set a negative precedent for similar development on restricted sites within Malahide.
- Concerns with regard to possible future amendments and extensions to the dwelling.
- Concern of overlooking to the appellants private open space
- Removal of trees and hedgerows to accommodate the dwelling will devalue the appellant's property.

- Request that as a minimum that a rendered block wall with concrete capping constructed to a height of 1.8m on the applicant's side of the existing planting along the full length of the proposed site boundary as it abuts the appellant's property.
- The development is contrary to the 'RS' zoning objective
- The appeal site fails in terms of size, location, density and building line to meet Development Plan criteria.
- Proposal is inappropriate, piecemeal, out of character, unsympathetic and will cause serious diminution to the residential amenity enjoyed by the appellant.

7.2. Planning Authority Response

The planning authority are of the opinion that having regard to the nature of the development proposed, the location of the subject site and the pattern of development in the vicinity of the appeal site, the proposed development is visually acceptable and will not negatively impact on the residential amenities of the area.

7.3. Other Party Responses

First party response is summarised as follows:

- The dwelling was specifically designed to have regard to the applicants needs and to the site constraints.
- The Applicant has lived in the house at Meadow Court for some 36 years and she wishes to remain living in the area.
- The proposal complies with the County Development Plan policies and objectives
- The size of the proposed dwelling at 92 sq.m exceeds the minimum requirement (80 sq. m) of a two bedroom house set out in Table RD01 in the Fingal County Council Development Plan.

- Considerable discussions and meetings took place between the applicant's son John and the appellant, Mr Condrón, regarding the proposed side boundary, an agreement was reached on the location and form of the boundary fencing that was acceptable to both parties.
- The proposed dwelling is appropriate and visually acceptable and will not negatively impact upon the residential amenities of the area and as a single storey will not affect the residential amenity of the appellant's property.
- Request that the Board uphold the decision of Fingal County council to grant planning permission including the retention of the existing mature hedgerow between the applicant's garden and the appellant's property.
- Response accompanied with:
 - Copy of record of communications between the applicant and the appellant – Discussion History
 - Copy of unsigned boundary treatment agreements dated 3rd February and 16th February 2016 between appellant and applicant.
 - Letter from the applicant Josephine O'Connor setting out background and reiterates points raised with respect to boundary treatment, overlooking, visual impact, character of the area and compliance with policies and objectives of the County Development Plan.
 - Photographs

8.0 Assessment

8.1. I consider the key issues in determining this appeal are as follows:

8.2 Compliance with Development Plan Policy

8.3 Residential & Visual Amenity

8.4 Boundary Treatment

8.5 Appropriate Assessment

8.2 Compliance with Development Plan Policy

The subject site is zoned residential to 'provide for residential development and protect and improve residential amenity' in the Fingal County Development Plan 2011 – 2017.

With respect to infill residential development both the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' and the Fingal County Development Plan encourage the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing public transport corridors utilising the capacity of existing social and physical infrastructure while recognising that a balance needs to be struck between the reasonable protection of the amenities and privacy of directly adjoining neighbours and the general character of the area and its amenities.

It is my opinion that the proposed development accords with the relevant development control standards of the Development Plan and will not detract from the visual amenities of the area and or be conspicuous. The proposed dwelling complies with the space requirements and room sizes that are set out in Section 3.4 Housing Design in the Fingal Development Plan 2011 – 2017. While having

cognizance to the concerns raised by the third party to this appeal, with respect to over development and setting a negative precedent, it is my opinion the proposed design achieves a balance between increasing residential density and protection of amenities. The proposed dwelling is single storey, a stated area of 67 sq. m private open space is proposed, parking for 2 cars is proposed to the front of the dwelling. I tend to agree with the planning authority and consider that the proposed development is not contrary to the character, density or pattern of development in the area.

I recommend, that in order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling and in the interest of the amenities of the area that a condition be attached which prohibits development falling within Class 1 or Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, taking place within the curtilage of the house, without a prior grant of planning permission.

8.3 Residential & Visual Amenity

The proposed structure has been explicitly designed to have regard to site constraints, it is stepped to the rear to reflect the angled nature of the site. The dwelling incorporates a series of hipped roofs which will have a maximum height of 4.9m. Ground floor windows are proposed on all elevations, 3 no. roof lights are also proposed. The proposed dwelling would be 2.35m off the northern boundary, between 7.4 – 1.04m off the eastern boundary and c. 4m off the southern boundary. A minimum distance of 7.8m is proposed between the front elevation and the western / front boundary of the site.

Having regard to the ground level and FFL of the proposed dwelling and the FFL of the appellants dwelling situated to the east, the height and single storey nature of the proposed dwelling, the lack of first floor windows and the separation distances between the proposed structure and the existing dwelling to the rear of

the site, I agree with the opinion of the planning authority that the proposed dwelling would be unlikely to give rise to overbearing or overshadow of the neighbouring property and overlooking would not be an issue given the absence of first floor windows.

The building line along the eastern side of Millview Road, on which the appeal site is located, is staggered both to the north and to the south of the site. To the north of the site and from the junction with Yellow Walls Road, there are a number of traditional cottages that are located relatively close to the edge of the road with a number of infill dwellings to the rear. I agree with the opinion of the planning authority that having regard to the variation in building style along this street, the existing staggered building line in the area, and the single storey nature of the proposed dwelling, that the proposed dwelling is visually acceptable and would not infringe upon the character of the area.

I do not support the view that a grant of planning permission for the nature, scale, design and location of a dwelling such as that proposed would devalue the appellant's property or property in the vicinity of the appeal site.

8.4 Boundary Treatment

The third party requests that a 2m high block wall be constructed between the new dwelling and the appellants existing dwelling, in order to protect the amenities of both properties. It is further submitted that as a minimum that a rendered block wall with concrete capping constructed to a height of 1.8m on the applicant's side of the existing planting along the full length of the proposed site boundary as it abuts the appellant's property.

I note that Condition 6 of the notification of decision to grant planning permission Reg. Ref F15A/0476 states:

'The boundary treatment shall be as indicated on Drawing MV09 submitted as clarification of additional information except for the timber panel and post fence forward of the building line of the existing Meadow Court House, where it shall be revised to a 1.8m high render block wall and concrete capping (boundary wall type 3) between the indicated boundary wall type 1 and the building line of the existing house'.

From my site visit it is evident that there is mature screening and trees present along the eastern boundary, separating the appeal site with the appellant's property. A wooden panel fence of some 1.8m in height is currently in-situ to the applicant's side of the mature landscaping. This fence is in a poor state of repair.

On assessment of the issues raised, in particular, with respect to privacy, integration of a new dwelling at this location and devaluation of the appellant's property, it is my opinion that retention of trees and hedgerows along the eastern site boundary is highly desirable. Having considered Drg. MV09 submitted by way of clarification of additional information I am in agreement with the first party and the planning authority, that the boundary treatment as proposed on the submitted plan and as amended by the planning authority, by way of condition 6, is acceptable. I am of the opinion, having regard to the existing situation on the ground, that a timber panel and post fence 1.8m high – 'boundary wall type 4' would be less intrusive than a 2 m or 1.8m high block wall along the eastern party boundary with the appellants property. Cognisance is had to possible injury of in-situ mature landscaping along this boundary from foundations required to support a 1.8m – 2.0m high concrete block wall.

8.5 Appropriate Assessment

The appeal site is not within or adjoining any Natura 2000 site.

Having regard to the nature and scale of the proposed development, the nature of the receiving environment 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.

9.0 Recommendation

- 9.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

10.0 Reasons and Considerations

Having regard to the zoning objective for the site '*provide for residential development and protect and improve residential amenity*', the nature of the development proposed, the location of the subject site and to the pattern of development in the immediately surrounding area it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would accord with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by additional information submitted on the 22nd January 2016 and clarification of additional information submitted on the 19th April 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external finishes of the proposed dwelling shall be as indicated on the plans and drawings submitted, i.e. selected brick and render finish, samples

of the proposed materials shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

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 order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling.

4. Site development and building works shall be carried out only 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 boundary treatment shall be as indicated on drawing MV09 submitted as clarification of additional information, on the 19th April 2016, except for the timber panel and post fence forward of the building line of the existing Meadow Court house, where it shall be revised to a 1.8m high render block wall with concrete capping (boundary wall type 3) between the indicated boundary wall type 1 and the building line of the existing house.

Reason: In the interest of residential and visual amenity.

6. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: In the interest of residential amenity.

7. The engineering requirements of the Transportation Planning Section of the planning authority shall be adhered to.

Reason: In the interest of proper planning and sustainable development of the area.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

9. Construction waste shall be managed in accordance with a construction waste management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interests of sustainable waste management.

10. 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.

Fiona Fair
Planning Inspector
29/08/2016