

An Bord Pleanála



Inspector's Report

Development: Construction of a two storey house and associated site works.

Location Mount Prospect Park, to the rear of No. 48 Mount Prospect Avenue, Clontarf, Dublin 3

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 2594/16
Applicant: Eimear Brady & Niall Brereton
Planning Authority Decision: Grant permission

Planning Appeal

Appellant(s): Ciaran and Kathleen O'Donohoe
Type of Appeal: 3rd v Grant
Observers: None
Date of Site Inspection: 12th August 2016

Inspector: Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located at Mount Prospect Park, Clontarf, Dublin 3 in the rear garden of No. 48 Mount Prospect Avenue, which rear garden runs along the roadway at Mount Prospect Park. The area, approximately 5km north-east of Dublin city centre, is characterised by medium density, two storey, suburban type housing. Mount Prospect Avenue extends between Sybill Hill Road to the west and the coast road to the east. The appeal site comprises the rear portion of the garden of No. 48, backing onto a lane, and with boundary walls to Mount Prospect Park and the lane.
- 1.2 No. 48 is situated on the northern side of the road at the junction of Mount Prospect Avenue and Mount Prospect Park. The site, from which the subject site is subdivided, is occupied at its southern end, fronting Mount Prospect Avenue, by a large detached dwelling with double height bay windows addressing both roads. The corresponding dwelling on the opposite side of Mount Prospect Park is on a site of similar proportions. There are other varieties of residential property on Mount Prospect Avenue including large two-storey detached and semi-detached houses many featuring brick finish. Houses on Mount Prospect Park are two storey terraced houses, many also featuring brick finish. The property at No. 48 and that on the opposite side of the road have long flank walls along Mount Prospect Park. In the garden on the opposite side of the road there is a low bungalow, the roof of which is visible behind the flank wall, with an entrance onto a laneway to the north. There are footpaths on either side of Mount Prospect Park and the road is of sufficient width for two way traffic but not for on-street parking in addition. Parking occurs partly on road and partly on the footpath. Hornbeam trees planted within the footpath area along both sides of the road have reached maturity and are a significant amenity benefit to the area. Along the subject property there are 4 trees, one of which is to be removed to make way for the proposed development.
- 1.3 The site is bounded at the northern end by a laneway which runs eastwards along the boundaries of 3 or 4 other houses on Mount Prospect Avenue then northwards where it serves as a rear access to the terraced houses on Mount Prospect Park. The widening of the laneway to provide for mews development has been referred to by the planning authority. Mount Prospect Park is narrower than Mount Prospect Avenue and appears to have less through traffic.

- 1.4 There are trees in the footpath along the subject site and the layout indicates that the tree towards the northern end is to be removed to facilitate the proposed development. There are trees within the site, including 3 birch trees along the eastern boundary, and a copper maple and a larch along the northern boundary. These are not shown on the layout plan and there is no indication of the intention with regard to these trees although the removal of some or all will be required, to facilitate the proposed development.
- 1.5 The site is roughly square shaped and has a stated area of 380 sq.m.

2 PROPOSED DEVELOPMENT

- 2.1 The proposed development comprises construction of a 2-storey 4-bed detached dwelling and the opening of a new vehicular access onto Mount Prospect Park. The proposed dwelling has a double pitched roof with hipped gables. There are four different roof heights presented to the road and a forward gable projection.
- 2.2 The floor area of the development is given as 220 sq.m.

3 PLANNING AUTHORITY DECISION

- 3.1 The planning application was lodged on the 1st April 2016.
- 3.2 **Technical Reports**
- 3.3 Engineering Department Drainage Division – 3/5/16 – conditions.
- 3.4 Roads Streets & Traffic Department Road Planning Division – 11/5/16 – conditions.
- 3.5 Planning – 25/5/16 – recommending permission subject to conditions.
- 3.6 The planning authority decided, 27/5/2016, to grant permission for the proposed development subject to 9 conditions, including condition no 3:

The development shall be revised as follows:

- a) Details on all proposed finishes and detailing which shall also show that the proposed dwelling is uniformly finished in a locally matching brick to the front and side elevations.
- b) The front western 1st floor window shall be provided with a more definitive central vertical division
- c) Details of obviation measures to minimise overlooking from the northern 1st floor of proposed bedroom 2's window over No. 2 Mount Prospect's rear garden area.
- d) An element of western facing vertical clear glazing shall be provided to proposed bedroom 4. For example the southern roofscape may be amended to accommodate an enlarged half-dormer feature so its western cheek can be fitted with clear glazing instead with the option to partially truncate the roofplane west of the aforementioned roof feature.
- e) Any flat roofed area shall not be used or accessed as a 1st floor terrace or patio whether or not it would be exempted development.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.

3.7 The decision was in accordance with the planning recommendation.

3.8 Objections on the file have been read and noted.

4 PLANNING HISTORY

29N.244911 Planning authority Reg Ref 3718/14 - construction of a 2-storey, 4-bed detached dwelling in the side / rear garden to include private amenity space, off street parking spaces, landscaping drainage, together with all associated site works at No. 48 Mount Prospect Avenue, Clontarf, Dublin 3; planning authority decision to grant; refused by the Board on foot of a third party appeal, for the following reason:

Having regard to the established character and pattern of development in the vicinity, it is considered that the proposed

development, by reason of its overall scale and bulk and proximity to site boundaries including the rear garden of the adjoining dwelling to the east, would represent overdevelopment of the site and would seriously injure the residential amenities of the area by reason of its overbearing effect on adjoining dwellings. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

It was also noted in the order that:

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that, notwithstanding the suitability of the site to accommodate infill development, the scale of the proposed development would be excessive on this restricted site and would consequently result in serious injury to the residential of the area by reason of its overbearing impact.

Other sites in the area

Dwellings have been developed in the rear gardens of nearby corner sites at No. 46 opposite (single storey - no history record); No. 47 under Reg. Ref: 0339/97 (single storey); No. 49 (no record); No. 67 (dormer bungalow); and at No. 121 under Reg. Ref: 1623/08 (dormer style).

Permission was also granted (Reg. Ref: 4185/09) at No. 49 and 49a for demolition of 2 no. single storey dwellings and construction of 1 no. one/ two storey dwelling as a replacement.

5 GROUNDINGS OF APPEAL

5.1 A third party appeal against the decision to grant permission has been lodged by Ciaran and Kathleen O'Donohoe, 50 Mount Prospect Avenue.

5.2 The grounds can be summarised as follows:

- The applicant has failed to address the previous refusal reason.
- Proposed dwelling is larger than that previous applied for in 2014.
- The development has effectively no rear garden.
- The reduction in height is minimal and some of the revised development is closer to the eastern boundary with No. 50.
- Elements of the planner's report are addressed.
- In certain respects the proposed development is more offensive than that for which planning permission was previously refused:
 - by reason of its overall scale and bulk and proximity to site boundaries including the rear garden of the adjoining dwelling to the east, would represent overdevelopment of the site
 - would seriously injure the residential amenities of the area by reason of its overbearing effect on adjoining dwellings.
 - the scale of the proposed development would be excessive on this restricted site and would consequently result in serious injury to the residential amenities of the area by reason of its overbearing impact.
- Third party is prepared to accept that the site is suitable for infill development but the development should be for a smaller dwelling, probably single storey or dormer and more removed from the eastern boundary.

6 RESPONSES

6.1 Planning Authority

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

6.3 **First Party**

6.4 Hughes Planning & Development Consultants have responded on behalf of the First Party to the grounds of appeal.

6.5 The response includes:

6.6 Following the decision by An Bord Pleanála on the third party appeal (Ref PL29N.244911) the applicants engaged Tyler Owens Architects to revisit the site with an objective of achieving a house design which addresses the reasons for refusal while also providing an adequate standard of accommodation. A new house design was lodged and approved. They request the Board to consider Option No 2: the amended drawings contained in Appendix A to the response. These consist of amendments to the plans approved by Dublin City Council. The changes seek to comply with the amendments required by Condition 3 of the decision, and to further respond to the appellant's concerns.

6.7 Changes in response to Condition 3:

As regards the planning authority's request that the front and side facades be uniformly finished in brick, they remain of the opinion that the proposed use of self-coloured render in addition to brick, is more reflective of the streetscape.

The front western 1st floor window has been provided with a more definitive central vertical division aligned centrally on the elevation.

Alterations to fenestration detail for bedroom 2 comprising a narrower window set further back from the eastern side, in addition to the provision of a new roof light to the northern roofslope, (re. 3c details of obviation measures to minimise overlooking from the northern 1st floor of proposed bedroom 2's window over No. 2 Mount Prospect's rear garden area).

Dormer window increased in width, resulting in additional clear glazing above 1.7m mark in addition to provision of new rooflight

to southern roofslope, (re. 3d an element of western facing vertical clear glazing shall be provided to proposed bedroom 4).

The only flat roofed element is above the canopy on the front elevation. A note on the drawing indicates that this area will not be used as a terrace/balcony, (re. 3e any flat roofed area shall not be used or accessed as a 1st floor terrace or patio).

6.8 Changes in response to appellant concerns:

Omission of the single storey element from the southern side of the house.

Provision of a 1m minimum building setback from the eastern property boundary.

6.9 The amendments have the effect of reducing the gross floor area, site coverage and plot ratio and increasing the private garden area.

6.10 Scale and bulk – the design incorporates a number of features including lower eaves and dormer windows to protect the existing residential amenity of residences at No. 2 Mount Prospect Park and No. 50 Mount Prospect Ave. Re. the eastern elevation, which is referred to by the appellant, the bulk of this elevation is reduced by incorporating a stepped approach. A 5.2m high wall (to eaves) is stepped in 4.995m from the boundary; a 5.2m high wall is stepped in 1.595m for a length of 5.2m; the house is reduced to dormer style at that point with a 4.45m high wall set in 700mm for a length of 5m; followed by the single storey element.

6.11 The revisions presented to the Board include the omission of the single storey element and a minimum set back of 1m from the boundary. This contributes to achieving a house of lesser bulk, lessening any perceived loss of outlook for adjoining residents.

6.12 Thumbnail drawings showing the ground floor layout as presented to Dublin City Council and the Board, and front elevations from the previous application and for the current

application as presented to Dublin City Council and the Board, are supplied for comparison; as well as contextual elevations. The proposal has been designed to avoid any overlooking of adjoining properties.

- 6.13 There are no habitable room windows on the eastern elevation. The dormer window on the northern elevation has been altered. The dormer window on the southern elevation contains opaque glass and is some 23m from opposing windows. There will be no loss of amenity to the rear garden of No 50.
- 6.14 **Third Party**
- 6.15 The third parties Ciaran and Kathleen O'Donohoe, have responded to first party response to the grounds of appeal.
- 6.16 The response includes:
- 6.17 The revisions are compared to the 2014 application which was 1m from the boundary, running for 11m. The revision in Option 2 is that part of the 12.05m rear wall is set back an additional 0.595m; remaining intrusive and overbearing. The floor area is not reduced with reference to the 2014 application. There is no rear garden.
- 6.18 Scale and Bulk – the floor area refused by the Board is the smallest of the three proposals. The current proposal reduces the height by c 0.5m and is not of great significance. The substantial chimney stack increases the impact. The dormer style portion does not have a significant impact on the roof line.
- 6.19 With reference to the drawings supplied for comparison, the third party points out that the southern part of the dwelling, which was previously refused, was located towards the west of the site, by comparison with the proposed southern portion which is located close to the eastern boundary, impacting on No. 50.
- 6.20 The omission of the extension and the small concession in boundary proximity are not such as to lessen their difficulties with

the development or address the Board's concerns as previously expressed.

- 6.21 Their concerns are reinforced by Figure 08 in the response.
- 6.22 The proposed development does not match the existing streetscape of terraced housing on Mount Prospect Park and it is at least twice the size of those houses which have substantial back gardens.

7 POLICY CONTEXT

- 7.1 The **Dublin City Development Plan 2011 – 2017** is the operative plan.
- 7.2 Relevant provisions include:
- 7.3 Zoned Z1 to protect, provide and improve residential amenities.
- 7.4 Chapter 17 which sets out development standards includes guidance in relation to mews dwellings which includes: that development of such lanes should follow a unified approach in preference to individual proposals; that a minimum carriageway width of 4.8m is required, and that the scale of the development should be subordinate to the main building. Guidance in relation to corner/side garden sites includes: that the development shall have regard to the character of the street, be compatible in design and scale with adjoining dwellings, pay attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings, as well as the residential amenities of adjoining sites.

8 ASSESSMENT

- 8.1 The main issues which arise in relation to this development are the impact on the established character and pattern of development in the vicinity and appropriate assessment and the following assessment is addressed under these headings.

- 8.2 **Established character and pattern of development in the vicinity**
- 8.3 The grounds of appeal refers to the overbearing nature of the development, mainly as viewed from the rear of their property, and also with reference to development on Mount Prospect Park.
- 8.4 The scale and visual impact of the house design was a material consideration in the previous application/appeal. The development has been modified and its height has been reduced. The various changes are referred to in the planner's report, in the grounds of appeal and in the first party's response, where further proposed modifications are included.
- 8.5 In my opinion the scale of the proposed development takes as its reference, development on Mount Prospect Avenue rather than development on Mount Prospect Park, and remains of a scale which appears excessive in the context of Mount Prospect Park .
- 8.6 In my opinion the design of the proposed development does not take as its reference development on either Mount Prospect Avenue or Mount Prospect Park and this contributes to its visual impact on the character of the area.
- 8.7 There is a likelihood that the laneway, to which the site abuts, will experience development in the future. Notwithstanding that provision has been made in the site layout for the future widening of the laneway, the layout and building design does not otherwise respond to this corner location.
- 8.8 The grounds of appeal refers to the proximity of the development to the boundary of No. 50 and the impact on the rear of their property and that the proposed development has no rear garden area.
- 8.9 The rear garden to the subject property, No. 48, and the properties adjoining on Mount Prospect Avenue, are of ample size to each fit a dwelling to the rear. The orientation of the subject dwelling within the site suggests to the viewer that the garden should be located between the dwelling and the boundary with No. 50. If the

design made adequate reference to its corner location between Mount Prospect Park and the laneway it would be easier for the viewer to acknowledge a garden area between the dwelling and the main house at No. 48 as appropriate provision. I consider that there is adverse impact on the adjoining property at No. 50 since by facing only the roadway and failing to address the corner location, future development along the laneway, including to the rear of No. 50 will appear to be located behind the subject dwelling. This situation could be avoided in the siting and design of the proposed dwelling.

8.10 I do not consider that the proposed development has an overbearing impact on the dwelling itself, at No. 50.

8.11 Because of its scale and design in proximity to the dwellings on Mount Prospect Park I consider that the proposed development would have an adverse impact on those dwellings.

8.12 The significant amenity benefit to the area from the hornbeam trees along the footpath on both sides of the road has been referred to earlier. One tree along the subject property is to be removed to make way for the proposed development. Although there are a number of trees along the site there are gaps between the trees where a vehicular access could be provided. The possibility of retaining the tree or the justification for its removal and proposals to address the loss should be included in any future proposal.

8.13 **Appropriate Assessment**

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

9 RECOMMENDATION

In accordance with the foregoing assessment, I recommend that planning permission be refused for the following reason.

REASONS AND CONSIDERATIONS

Having regard to the established character and pattern of development in the vicinity, it is considered that the proposed development, by reason of the site layout and the scale and design of the building, including the manner in which it addresses site boundaries, would seriously injure the residential amenities of the area by reason of its overbearing effect on adjoining dwellings and lands. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Dolores McCague
Inspectorate

Date

- Appendix 1 Map and Photographs
- Appendix 2 Extracts from the Dublin City Development Plan
2011 -2017