



An  
Bord  
Pleanála

## Inspector's Report PL29S.247463.

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<b>Development</b>	Demolish dwelling and erect new dwelling with new shed and associated works.
<b>Location</b>	No. 45 Nutley lane, Donnybrook, Dublin 4.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3000/16.
<b>Applicant(s)</b>	Eugene and Virginia O' Reilly.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	John and Mary O'Connor and Ivor and Shelia Boden.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	11 <sup>th</sup> of January 2017.
<b>Inspector</b>	Karen Hamilton.

## 1.0 Site Location and Description

- 1.1. The subject site is a two storey detached dwelling with large front and rear gardens and private parking which is accessed directly onto Nutley Lane, Donnybrook, Dublin 4. This northern section of Nutley Lane is predominantly residential in nature and includes a mix of house types. The Elm Park Golf club is located directly opposite the main road and the RTE studios and St Vincent's Hospital are near the site.

## 2.0 Proposed Development

- 2.1. The proposed development includes the following:
- Demolition of a two storey detached dwelling (243m<sup>2</sup>).
  - Construction of a two storey detached dwelling (366m<sup>2</sup>).
  - New shed to the rear (27m<sup>2</sup>).
  - Widening of vehicular entrance and works to the front boundary wall.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission subject to conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and notes the proposed development should not cause any undue negative impact on the existing residential amenities.

#### 3.2.2. Other Technical Reports

Drainage Division- No objection subject to conditions.

Roads and Traffic Division- No objection subject to conditions.

### 3.3. Third Party Observations

One observation was received from an adjoining resident and the main issues raised are summarised in the grounds of appeal.

### 4.0 Planning History

None on the site.

### 5.0 Policy Context

#### 5.1. Dublin City Development Plan 2016-2022

The site is zoned in Z 1 *“To protect and/or improve the amenities of residential amenities”*.

##### New dwelling

**Policies QH18:** Ensure that new houses meet the needs of family accommodation with satisfactory residential amenity.

**Policy QH19:** Ensure that new housing adjacent to existing reflects the character and scale unless exceptional circumstances.

##### Demolition and Re-use of Housing

**Section 5.5.8** The demolition of existing housing is generally discouraged on sustainability grounds and it may lead to a loss of residential accommodation and streetscape character.

**QH23:** To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

**Section 16.10.2:** Residential Quality Standards for dwellings include but not restricted to separation distance of 22m to rear between first floor rear windows, open space provision of 10m<sup>2</sup> per bed space, generally up to 60-70m<sup>2</sup> of rear garden is sufficient in the city.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal have been received from owners of the dwellings to the east of the site and the main issues are summarised as follows:

- The proposed development is contrary to the zoning and guidance of the development plan as it does not protect the residential amenity of those residents adjoining.
- The proposed development is out of character to the surrounding development.
- 29S.221952 was granted in the vicinity for a similar development and included a condition to set back the dwelling 2m from the dividing boundary.
- The proposed development would cause overshadowing on the appellants' private open space.
- The proposed development is visually intrusive and incompatible with the established pattern and scale of residential development in the area.

### 6.2. Applicant Response

The applicant responded to the appeal and the main issues are summarised as follows:

- The demolition and rebuild is required to meet the needs of an ageing couple.
- It appears that the appellant has made the submission based on the initial drawings and not those submitted as part of further information request.
- The shadow projection drawings submitted are based on the initial submitted drawings and not those amended as part of the further information. These shadow projection drawings are based on incorrect daylight saving hours as the hr has not been included for adjustment.
- The rear patio is not the only open space for No 1 Elm Park Road, indeed it has a large side and front garden.

- The windows to the side of current dwelling are larger than those proposed on the first floor.
- Reference to No 35 Nutley Lane does not lend itself to comparison on this site as the adjoining dwellings are different.

### 6.3. **Planning Authority Response**

The planning authority response refers to the planner's report and the decision to grant permission.

### 6.4. **Observations**

None received.

## 7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of development.
- Visual Amenity.
- Residential Amenity
- Other Matters
- Appropriate Assessment

### **Principle of Development**

7.2. The proposed development includes demolition of a dwelling and construction of a new dwelling. The site is zoned for residential development in the current development plan and therefore subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

### **Visual Amenity**

7.3. Nutley Lane, and the adjoining residential areas of, Nutley Ave and Nutley Road are characterised by two storey detached and semi-detached dwellings which range in design and style. The proposed development includes the demolition of an existing

two storey dwelling (243m<sup>2</sup>) and replacement with a new two storey dwelling (303m<sup>2</sup>). The proposed dwelling is similar in bulk and mass to the existing dwelling and will be located on a similar footprint, set back from the main road by 15m. Therefore, based on the pattern of development in the vicinity and the design of the replacement dwelling, I do not consider the proposed development would have a negative impact on the character of the surrounding area.

### **Residential amenity**

- 7.4. The proposed development will be located the same distance at ground floor and 2m closer at the first floor, to the rear boundaries of No 1 and No 2 Elm Park, to the east of the site. The grounds of appeal argue that the proposed dwelling is excessive and will have a detrimental impact on residential amenity by way of overlooking, overshadowing and overbearing. I have assessed each of these issues individually below.
- 7.5. Overlooking: The current dwelling has a window on the first floor north east elevation, facing the appellant's rear dwellings, to serve the stairs. The proposed development includes two small windows on the first floor to serve two ensuites, both with obscure glazing. The rear first floor windows are orientated to the north and there are no dwellings located to the rear of the site. Based on the design and materials in these windows, I do not consider there would be any overlooking from the proposed development on adjoining properties.
- 7.6. Overshadowing: The proposed development is located to south west of No 1 and 2 Elm Park and the first floor side elevation is located 2m closer to the rear boundary of these dwellings. I note shadow project drawings have been submitted from both the applicants and appellants and I have assessed the proposed development in relation to the adjoining sites and consider that although there is an increase in shadow from the new dwelling, in late evening on spring and summer, I do not consider it would have a significant negative impact on the amenities of the adjoining residences, nor do I consider it would devalue their properties.
- 7.7. Overbearing: The proposed development is located on a similar footprint to the current dwelling with the first-floor side extended, 2m, over the current ground floor location and an increase in the overall height by 15cm. I consider the scale and mass of the proposed dwelling is similar to the existing dwelling, therefore I do not

consider the proposed development would have a negative impact on the adjoining dwellings due to overbearing.

### **Other Matters**

- 7.8. In addition to the reconstruction of the dwelling, the proposed development includes construction of a rear shed (27m<sup>2</sup>) and widening of the existing vehicular entrance. I note there no objection from the Roads Section in relation to the increase in entrance and set back of entrance gates and I consider these works acceptable. The proposed single storey shed is located at the bottom of the garden and although it contains a toilet I consider this reasonable.

### **Appropriate Assessment**

- 7.9. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance 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 the conservation objectives of any European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

Having regard to the zoning objective, the design and layout of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenity or depreciate the value of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 out in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity

3. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

- .4. 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.

- . 5. 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

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. Karen Hamilton  
Planning Inspector

23<sup>rd</sup> of January 2017