



An  
Bord  
Pleanála

## Inspector's Report PL29N. 247640

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<b>Development</b>	Replace house
<b>Location</b>	66 Seafield Road East, Dublin 3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3748/16
<b>Applicant</b>	Margaret Scully
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Margaret Scully
<b>Observers</b>	John and Mary Barlow
<b>Date of Site Inspection</b>	7 <sup>th</sup> February 2017
<b>Inspector</b>	Stephen J. O'Sullivan

## **1.0 Site Location and Description**

1.1. The site is located in a suburban area of north Dublin. It has a stated area of 1,166m<sup>2</sup>. It consists of the curtilage of a detached dormer house with a stated floor area of 236m<sup>2</sup>. A mature fir tree stands in the front garden, which screens the house from direct views from the street. The side wall of the existing house is along the boundary with the boundary of the property to the east at No. 68. Its eaves overhang that property and it forms part of the garage serving that house. A single storey building has been erected at the rear of the site. The house on the site is between two other similar houses with red roof tiles dating from the 1920s. Apart from these houses, Seafield Road is characterised by detached houses of varying designs from the mid-20<sup>th</sup> century, and by a late 20<sup>th</sup> century apartment scheme across the road from the site.

## **2.0 Proposed Development**

2.1. It is proposed to demolish the house and building a new one with a floor area of 384m<sup>2</sup> and a roof ridge height of 7.685m (as shown on revised plans submitted with the appeal).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for the following reason –

Having regard to the excessive scale and massing of the proposed dwelling and the upper floor windows on the on the east and west elevations less than 5m from the boundary with the private open space to the rear of adjacent properties, it is considered that the proposed development would detract from the visual and residential amenities of the area. The proposed development would therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity, be contrary to the provisions of the Dublin City

Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The proposed development is unlikely to unduly overshadow adjoining property as the dormer return is 2.755m and 3.185m from the side boundaries of the site. The rear element of the proposed house has a balcony and dormer windows to the side. It would cause significant overlooking of third party open space. The treatment of a party wall in the proposed demolition has not been addressed. The house on the site is one of three vernacular arts and crafts style houses. The proposed house would be much bigger and may appear overbearing in relation to adjoin properties due to the narrowness of the plot. The chimney stacks are overscaled. Policy QH23 discourages the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied and a net increase in the number of dwellings units is provided. The proposed single replacement house would contravene this policy. It was recommended that permission be refused.

### **3.3. Third Party Observations**

An submission was received from neighbours who objected to the development on ground that were repeated in their observation on the appeal.

## **4.0 Planning History**

Reg. Ref. 2427/14 – the planning authority granted permission for a physical therapy studio behind the house on the site.

PL29N. 243069, Reg. Ref. 3745/13 - the board granted permission for a single storey extension of 119m<sup>2</sup> at the back of the house.

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Development Plan 2016-2022 applies. The site is zoned residential under objective Z1. Policy QH23 is 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal was accompanied by revised drawings which omitted the dormer windows on the side slopes of the roof at the back of the house and the balcony serving the master bedroom there, as well as which reducing the roof ridge height by 550mm and that of the chimneys by 1m. The window at the main staircase is also reduced. The grounds can be summarised as follows-

- The proposed development is in keeping with the residential zoning of the site and policy SC28 of the development plan that promotes good urban design. The proposed house would provide a high standard of residential accommodation in a house that enhances the neighbourhood character and streetscape. The modified design would avoid injury to the amenities of adjoining property.
- While the existing house is one of three similar houses, there is no particular house style that defines the character of this part of Seafield Road. The range includes single, dormer and two-storey houses that are detached or semi-detached. An apartment scheme stands opposite the site. There are numerous precedents for the proposed development, with the planning authority granting permission for replacement houses in the area at 51 Seafield Road under Reg. Ref. 2552/07; at 65 Mount Prospect Road under

4473/07; and at 49 Mount Prospect Avenue under 4185/09. The board granted permission for replacement houses at 338 Clontarf Road under PL29N. 241453; and at 18 Seafield Road West under PL29N. 242466. Street elevations of those proposals are reproduced.

- The applicant seeks to replace a dormer house of 236m<sup>2</sup> and 7 bedspaces with a two-storey house of 384m<sup>2</sup> and 8 bedspaces. 70% of the increase in floor area is accounted for by the single storey rear element in the proposed house. The energy efficiency and the standard of accommodation in the existing house is not conducive to modern family living. Policy QH 13 of the development plan is to support energy efficient development, while QH14 is to ensure new housing is designed in a way that is flexible and adaptable. Policy SC26 is in favour of innovative design which is resilient to climate change. The site coverage and plot ratio of the proposed house are below the levels recommended in the development plan but they are consistent with the established character of the area.
- The proposed development is justified under policy QH23 due to the standard of accommodation and energy performance of the existing house. The building energy rating of the existing house is E2, with annual CO<sub>2</sub> emissions calculated as 72.29kg per m<sup>2</sup>. Renovation to bring the house up to an 'A' rating would be prohibitively expensive. The proposed house would make use of the eastern and western aspects of its living spaces from an energy efficiency perspective. Having more than one house on the site facing Seafield Road would be inconsistent with the character of the street, while the board refused permission under PL29N. 238385 for a house behind the building line at No 64.
- The proposed house would be generally consistent with the front and rear building lines, with a dormer extension to the rear stepped in from the side boundaries. The height of the detached house would graduate from the neighbouring sites. The pitch of the roof over the extension to the rear and its setback from the sides of the site would ensure that it did not unduly overbear the neighbouring houses. The proposed dormer window at the sides of that roof have been omitted to avoid overlooking of those properties. The base of the window at the staircase has been raised and the rear balcony omitted to

the same end. All the houses have long gardens on a north-south axis so undue overshadowing would not arise.

## 6.2. **Planning Authority Response**

The response stated that the authority had no further comments.

## 6.3. **Observations**

The observation from John and Mary Barlow can be summarised as follows-

- The observers live in the neighbouring house at No. 68. They do object in principle to a replacement house on the site, they would support the decision of the planning authority which reflected the concerns expressed in their submission on the application. The development proposed to the planning would represent overdevelopment of the site and would unduly overlook and overshadow the neighbouring houses compared to the existing situation, and thus impact significantly on the observers' residential amenity and privacy.
- The revised plans submitted with the appeal are a material change from those submitted to the planning authority and should not be accepted at this stage by the board. The general public cannot now engage with the decision making process on the revised proposals.
- Notwithstanding this, the revisions have not mitigated against the significant issues in the initial application and do not sufficiently address the reason for refusal. The reduction in the height of the roof is minor and does not reduce the scale and massing of the house which was a key reason for refusal. It would have a negligible impact on the overbearing and overshadowing of the observer's property. The reduction in the height of the chimneys is also minor. The reduced window at the stairs will still impact on the residential amenity of the observers' house due to actual and perceived overlooking of a space that is actively used and is a direct extension of the internal residential use of their dwelling. The omission of the balcony is minor and the French windows will still overlook the rear of their property. The replacement of the side dormer windows with rooflights would reduce but not completely

remove overlooking from this first floor bedroom. There would be no reduction in the footprint of the proposed 385m<sup>2</sup> dwelling.

- The precedents cited by the applicant are invalid as they do not refer to a context with adjoining single storey houses like the current site. The other authorised houses are more sensitively designed and set back to protect the amenities of adjacent properties.
- The observers' original concerns still apply to the revised proposals. The mass of the proposed house, with its length and proximity to the side boundaries of the site would overshadow and overbear the observers' property, and so would injure their residential amenity. The proposed does not address how the party wall along the shared boundary would be treated in the demolition of the house. Its removal could damage the structural integrity of the observers' property. No information has been given on the commercial use that was authorised at the rear of the site.

## 7.0 Assessment

- 7.1. The area is zoned for residential use. The proposed development would comply with this zoning. The council planner's report referred to policy QH23 of the development plan to discourage the demolition of habitable housing, although it was not cited in the planning authority's reason for refusal. While a general presumption in planning policy against the loss of habitable housing would be reasonable, the proposed development would replace one house with a larger house on the same site. This would not reduce the quantity or quality of housing in the city and so should not be regarded as materially contravening the provisions of the development plan in this regard. The principle of the proposed development is therefore considered to be acceptable, although the specific impact of the particular proposal before the board on the character of the area and the amenities of neighbouring property also needs to be considered. The revised proposals submitted with the appeal reduce the scale of the house that was proposed in the original application, somewhat. They do not introduce any new or significantly larger elements into the proposed development. They do not differ materially from the proposed submitted with the application, therefore, and the board may consider a grant of permission with a condition that

would refer to them without unfairly depriving any third party of their rights to make submissions.

- 7.2. The proposed development would introduce a substantially larger house onto the site than the one that currently stands there. Its design and form would differ from the houses on either side while the existing house matches them. However the site is not within a conservation area and there are no protected structures in the vicinity. The proposed house would maintain the building line. Its detailed design is acceptable and reflects the mid-20<sup>th</sup> century houses around it. A large, detached two storey house would not be out of place along Seafield Road. While the proposed house would be much larger than a normal family dwelling, it would stand on a plot that was also much larger than that of most houses in the city. The scale, form and design of the proposed house are therefore in keeping with the setting of the proposed house. It would not disrupt the streetscape or injure the character of the area.
- 7.3. The position of the proposed house in a building line that runs east-west, the use of a pitched roof on the proposed rear return and its set back from the side boundaries of the site would ensure that it did not unduly overbear or overshadow the neighbouring properties. The omission of the dormer windows and balcony at the back of the house, and the use of the frosted glass in the window serving the staircase, would ensure that the proposed house did not unduly overlook the neighbouring properties in a manner that undermined their privacy. It would be unreasonable to expect that a house in an urban area would have no visual impact or no view whatsoever of adjoining property. The actual impact of the proposed house in this regard would not seriously injure the residential amenities of the neighbouring houses, even having regard to the layout of the amenity space behind the observers' house at No. 68.
- 7.4. The side wall of the existing house forms the side wall of the garage of the house at No. 68 and its eaves overhang that property. The side wall of the house at No 64 is in the same position in relation to the house on the site. The proposed house could be built without injuring the structural integrity of the houses on either side, provided its construction was carried out competently with due regard to the property rights that attach to the neighbouring houses. Indeed, following section 34(13) of the planning act, a grant of permission in this case would not entitle the applicant to



carry out the proposed development without such care and consideration. The description of the proposed development did not refer to the studio at the rear of the site. As it is not proposed to alter the use of the site, it would be reasonable to assume that the studio would have the same relationship to the proposed house as it has with the existing one. It is not considered, therefore, that these issues would preclude the board granting permission if it considered the proposed house to be acceptable otherwise.

## 8.0 Recommendation

8.1. I recommend that permission be granted subject to the conditions set out below.

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area 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 character of the area or the amenities 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 by the further plans and particulars received by An Bord Pleanála on the 25<sup>th</sup> day of November, 2016, 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 window in the eastern side elevation of the house above ground floor

level shall be fitted with frosted glass and shall be openable only its top leaf.

**Reason:** To protect the amenity of the neighbouring property

- 3 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.

- 4 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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.

- 5 Construction and demolition waste shall be managed in accordance with a construction waste and demolition 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management

- 6 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

**Reason:** In the interests of visual and residential amenity.

- 7 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.

- 8 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

- 9 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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Stephen J. O'Sullivan  
Planning Inspector

14<sup>th</sup> February 2017