



An
Bord
Pleanála

Inspector's Report PL06F.247753

Development	House with vehicular access off Castleknock Park, new vehicular entrance to existing house and all associated site works, new pedestrian entrance and modifications to the south boundary wall and associated site works.
Location	Side of 80 Castleknock Park, Castleknock, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW16A/0142
Applicant(s)	Eoin Thynne and Áine Mullins
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellants	Mark and Nancy Morgan and Ann and Pat Fahey
Observers	Martin O'Halloran and Brian Rogers and Others
Date of Site Inspection	20 th February 2017
Inspector	Patricia Calleary

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.051ha is a corner site which currently hosts a detached house located at No.80 Castleknock Park in Castleknock. The garden area to the side of the house is bounded by block walls capped and plastered. There are three trees along the southern boundary and one along the eastern boundary of the site, on the grass verge outside the site boundary. There are also trees within the site along the rear boundary.
- 1.2. The pattern of the development within the estate consists of 2 storey detached houses with gables facing to the front, laid out in a formal compact arrangement.
- 1.3. The site is located east of Castleknock built up area and a primary school. The R147 (Navan road) lies c.700m to the north, the R806 lies c.200m to the south and the M50 is located c.900m to the west.

2.0 Proposed Development

- 2.1. The site notice sets out that the proposed development would comprise the development of a two storey detached dwelling with vehicular access off Castleknock Park, a new vehicular entrance to the existing house and all associated site works, a new pedestrian entrance and modifications to the south boundary wall and associated site works.
- 2.2. An existing garage and external store/utility room on the site would be demolished.

3.0 Planning Authority Decision

- 3.1. The Planning Authority issued a decision to **grant permission** subject to 17 conditions, the following of note:

Condition No.5 – Any attic floorspace which does not comply with the Building Regulations shall only be used for storage.

Condition No.8 – Methodology of tree removal to be agreed in writing;

Condition No.9 – Tree bond to be lodged (€2000) and tree protection measures.

4.0 Planning Authority Reports

4.1. Planning Reports

The main points set out in the Planning Officers assessment are summarised under as follows:

- The site is zoned residential 'RS' and the principle is therefore acceptable;
- Overall design considered acceptable and a financial contribution to cover cost of removal and replacement is reasonable, other trees within the site should be maintained;
- Will not result in any undue overlooking or overshadowing;
- Private open space is acceptable;
- No objection received from Transportation Planning section (vehicular access and parking) or from Water services (surface water).

The Planning Officer put forward a recommendation to **grant permission**.

4.2. Other Technical Reports

- **Water and Drainage Department** – No objection subject to conditions;
- **Transportation Department** – No objection subject to conditions;
- **Parks and Green Infrastructure** – Notes loss of one tree would be required. No objection subject to conditions.

4.3. Prescribed Bodies

- **Irish Water** – No objection subject to conditions.

4.4. Third Party Observations

Six third party submissions were received and are stated to have been considered by the Planning Authority in making its decision. Issues were raised around traffic,

residential amenity, loss of street trees, construction management, encroachment onto the front building line and use of attic for habitable accommodation.

5.0 Planning History

5.1. Appeal site - None

6.0 Policy Context

6.1. Fingal County Development Plan 2011 - 2017

- Located in an area with **Zoning objective 'RS'** which is to 'provide for residential development and protect and improve residential amenity';
- **Objective RD01** (Ensure consolidated development), **RD07** (Require new residential development units comply with minimum standards set out in Tables RD01, RD02 and RD03), **Objective RD10** (Encourage development of underutilised infill and backland sites subject to protecting character of area);
- **Objectives OS35** (open space privacy) and **OS38** (minimum open space provision);
- **Objective D09** – Encourage and promote the development of underutilised infill and backland sites in existing residential areas subject to the character of the area being protected;
- **Objective OS28** - Protect, preserve and ensure the effective management of trees and groups of trees;
- **Objective OS29** Ensure during the course of development, trees and hedgerows that are conditioned for retention are fully protected.

6.2. The Forest of Fingal – A Tree Strategy for Fingal 2010

- This document outlines actions for the care of woodlands, hedgerows, trees, tree groups and street trees to promote healthy growth and development.

6.3. **Natural Heritage Designations**

- None

7.0 **The Appeal**

7.1. **Grounds of Third Party Appeal**

7.1.1. An appeal was received from **JFOC Design and Planning** representing the appellants **Mark and Nancy Morgan** of 81 Castleknock Park and **Ann and Pat Fahey** of 96 Castleknock Park, against the decision made by the Planning Authority to grant planning permission. The following provides a summary of the points put forward.

- Development would lead to inconvenience from construction and in the event of permission, a construction management plan should be required;
- Would be out of scale and pattern with the established pattern of development in the estate;
- Would result in loss of landscaped area to side of No.80;
- By virtue of mass, scale and bulk, would appear dominant onto the public domain;
- Use of attic space would generate increased occupancy and demand for parking;
- In the event of a grant of planning permission, requests the velux windows be reduced in scale and the circular window be removed to avoid overlooking from the window;
- Would exacerbate existing chronic traffic congestion especially at peak school times.

7.2. **Applicant's Response**

7.2.1. The following provides a summary of the Applicant's response to the appeal.

- House is designed to a similar scale and proportion to adjoining houses in the estate;

- Attic space has been designed with easy access by way of a proper stairs and adequate daylight to make it more useable for storage;
- Roof lights are not visible from appellant' houses and the small front circular window is located c.30m from the front of 96 Castleknock park and is not visible from No.81 Castleknock park;
- Two parking spaces have been provided in compliance with Development Plan requirements.

7.3. **Planning Authority Response**

7.3.1. The following provides a summary of the Planning Authority's response to the appeal.

- Private open space proposed satisfies the requirement of the Fingal Development Plan;
- Proposed development meets all relevant development standards set out in the Fingal Development Plan. Design is a modern interpretation of the existing dwellings in Castleknock park;
- Parking will be provided and the transportation department were satisfied with the proposal;
- No overlooking would arise, however the circular window could be fitted with obscure glazing or removed should the Board require;
- Refers to Condition No. 5 attached to the decision regarding the use of the attic in the context of the Building Regulations.

7.4. **Observations**

7.4.1. Observations were received from Martin O'Halloran and Brian Rogers and Others from various houses in Castleknock Park. The following is a summary of the issues raised.

- House reads as a three storey scale and is out of character with the existing development in the estate. Requests the circular window on the front façade be removed;

- Development located at a busy junction and there is an increased risk of a traffic collision;
- As No.80 is rented, there have been 4-5 cars associated with the house. Concern that the proposed new dwelling will also give rise to 4-5 cars;
- Would give rise to an undesirable precedent for other similar development;
- Not in-keeping with the design and style of other houses and has potential to devalue existing properties.

8.0 **Assessment**

8.1. **Introduction**

8.1.1. I consider the key issues in determining the application and appeal before the Board are as follows:

- Compliance with Development Plan Policy
- Residential Amenity
- Trees
- Traffic
- Other

I consider each of the above issues as set out under the respective headings below.

8.2. **Compliance with Development Plan Policy**

8.2.1. The site is located within an area which is zoned as 'RS - provide for residential development and protect and improve residential amenity' in the current Fingal Development Plan 2011-2017.

8.2.2. Both the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the Fingal County Development plan are supportive of providing additional dwellings within inner urban areas of towns and cities, proximate to transport corridors while also recognising that a balance needs to

be struck between the reasonable protection on amenities and privacy of directly adjoining neighbours and the general character of the area.

- 8.2.3. The development would accord with the development management standards set out in Tables RD01 and RD03. Post the development, the rear garden of the two dwellings would be c.75 sq.m (new house – 4 bedroom) and 100 sq.m (host house) which would be in accordance with OS38 of the current Fingal Development Plan. I am also satisfied that the new house would not be incongruous or detract from the visual amenities of the area.
- 8.2.4. Based on the planning policy and applicable development plan objectives, I am satisfied that the proposed development including the development of a house on residential zoned lands is acceptable in principle and is also supported by Objective RD01 as it would result in consolidated development. I recommend that in order to ensure that a reasonable amount of rear garden space is retained for the benefit of the future 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.
- 8.2.5. Notwithstanding my view that the development of a house in principle is acceptable on the site, it is also relevant to consider the planning issues which arise. My assessment below considers such issues.

8.3. Residential Amenity

- 8.3.1. The rear building line of the new house at first floor level will not extend beyond the established rear building line of the houses at the location except for one bedroom which extends beyond the existing rear building line by c.3m, however, there is no window proposed on the rear elevation of this bedroom. Windows on the south and north elevations at first floor level serve bathrooms and a condition can attach to ensure these are permanently fitted with obscure glazing. The bedroom on the south side of the house is located c. 27m from the front gardens of the houses on the opposite side of Castleknock park. The roof lights and circular window would not result in overlooking onto adjoining houses having regard to the position, size and

separation distances. I am satisfied that the development would not result in undue overlooking.

8.3.2. Having regard to the size, scale and position of the proposed house, I am satisfied that issues of overshadowing onto adjoining properties do not arise.

8.3.3. Overall, I consider the proposed development would not result in a loss of residential amenities and should not be refused for this reason.

8.4. **Trees**

8.4.1. The removal of a tree at the front of the existing house No.80 is required. This is recognised by the Parks and Green Infrastructure Division as being acceptable subject to the methodology being agreed and the payment of a special contribution of €800 to cover the cost of removing and disposing of the tree and replacement planting in the general environs of the development. It is stated that this condition is in line with the Forest of Fingal Tree Strategy. I am satisfied that the details can be agreed between the developer and the Planning Authority and I am recommending a condition attach accordingly. Having reviewed the S.48 contribution scheme, I consider a special contribution can only be applied in respect of the provision of infrastructure or facility that would benefit the development and given the specific wording, I do not consider that it is intended to include a contribution towards tree removal, disposal or replacement. I do not therefore recommend the attachment of a special contribution condition in this instance.

8.4.2. In relation to protection of the 3 no. trees located along the southern site boundary and the trees located in the rear property of the site, the Planning Authority, informed by the Parks department attached a condition to the decision requiring protection of the trees and the putting in place of a security bond of €2000. As above I consider that the details for protection of the trees can be agreed between post planning by way of a compliance condition. I do not propose including the tree bond requirement as I do not consider it would be necessary if the trees are protected and having regard to the modest nature of the development proposed.

8.4.3. Overall subject to a condition, I consider that the development, including the loss of one tree and the protection of other trees as outlined above, the development would be acceptable.

8.5. Traffic

- 8.5.1. It is my opinion that the proposed development of one single house would not be such as would lead to the creation of a traffic hazard in this location. Parking for the 2 houses are proposed within the curtilage of each site which is in accordance with the standard set out in the Fingal Development Plan. The Transportation planning section raised no objection to the proposed development.

8.6. Other

8.6.1. Attic Space Use

- 8.6.2. Concerns have been raised regarding the use of the attic space for habitable accommodation. The applicant responds stating that the fixed stairs is included to provide easy access to the attic which would be used for storage only. I do not consider the internal use of the attic space as either storage or habitable accommodation would impact on the proper planning and sustainable development of the area. What would be a greater concern for the home owner / occupier would be adhering to the Building Regulations which is a matter governed under a different regulatory context. For this reason, I do not recommend repeating Condition No.5 attached to the planning decision.

8.6.3. Appropriate Assessment

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

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 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 **permission** should be **granted** for the reasons and considerations set out below.

10.0 Reasons and Considerations

10.1. Having regard to the zoning objective for the site to '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 area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance 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, 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. 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.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling 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. All bathroom, WC and en-suite windows shall be fitted and maintained with permanently obscured glazing.

Reason: In the interest of residential amenity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures, traffic management measures and off-site disposal of construction and demolition waste.

Reason: In the interests of public safety and residential amenity.

6. Prior to commencement of development, the naming and numbering of the proposed house shall be agreed in writing with the planning authority.

Reason: In the interest of orderly development.

7. Site development and building works shall be carried only out between the hours of 08.00 to 17.00 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 amenities of property in the vicinity.

8. The removal and disposal of the tree in the verge to the front of No.80 Castleknock Park and the protection of other trees shall comply with the requirements of the planning authority.

Reason: To ensure the satisfactory removal and disposal of the tree and to protect trees during the construction period.

9. Water supply and drainage arrangements, including the 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.

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.

Patricia Calleary

Senior Planning Inspector

21st February 2017