



An
Bord
Pleanála

Inspector's Report PL06D.247865

Development

Retention/completion of amendments to previously granted planning permission including extension, repositioning of first floor rear wall and roof lights, alterations to elevations to an existing house with all associated site works.

Location

38 Woodlands Park, Blackrock, Co Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D16B/0433

Applicant(s)

Denis & Aoife O'Connor

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third-v-Grant

Appellant(s).

Bernadette Hallahan

Date of Site Inspection

11th April 2017

Inspector

Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.105 hectares is located at No. 38 Woodlands Park, Blackrock, Co. Dublin. This area is a very attractive mature residential area and consists of large dwellings on substantial plots. There is a wide variety of styles and designs in the area. The existing dwelling on the site is a large part two storey part single storey property with a stated floor area of 247 square metres. Two storey detached houses are located to the east and west of the site.

2.0 Proposed Development

2.1. Permission is sought for retention and completion of amendments to previously granted permission (reg. ref. D15A/0185, ABP ref. PL06D244965) comprising (a) ground floor extension of 17.5sqm to rear south-west corner, (b) re-positioning of first floor rear wall by 130mm to south east as a consequence of placement of steel structural supports beneath, (c) minor alterations to rear single-storey roof configuration and rear first floor window cills associated with the installation of a Bauder Extensive Green Roof System to flat roof to rear, (d) re-positioning of roof lights to flat roof to rear at ground floor level, (e) minor adjustments/reduction in overall dimensions associated with setting out and site conditions, (f) omission of 2 no. velux roof lights to south west elevation to side, (g) change from original large concrete roof tiles to 'red rosemary' type clay tiles to be more in keeping and (h) alteration to elevations associated with all of the foregoing.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 10 conditions. The conditions are standard in nature.

3.2. Local Authority and External reports

3.2.1. Environmental Health Officer (16/11/16): No objections subject to conditions.

- 3.2.2. Drainage Planning (17/11/16): No objection subject to conditions.
- 3.2.3. Planning Report (09/12/16): It was considered that the proposed alterations/development were minor in nature and not a significant departure from the previously permitted development. The proposal was considered to have no negative impact on the visual amenities of the area or the residential amenities of adjoining properties.

4.0 Planning History

- 4.1 PL206D.244965: Permission granted for demolition of extensions, removal of chimney stacks to rear, new roof to entire house, new extension, velux roof lights, alteration to fenestration, new chimney stack and associated works.
- 4.2 PA D97B/0890/ PL105832: Permission granted for an extension to the side at first floor level by Planning Authority. Appeal withdrawn on appeal.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The relevant Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective 'A' with a stated objective 'to protect and/or improve residential amenity'.

6.0 The Appeal

6.1 Grounds of appeal

- 6.1.1 A third party appeal has been lodged Bernadette Hallahan, 39 Woodlands Park, Blackrock, Co. Dublin. The grounds of appeal are as follows...
- The appellant considers that insufficient consideration was given to her submission in relation to the application.

- The appellant notes the alteration to the position of the first floor wall is larger than stated noting that it is 300mm rather than the 133mm stated. The appellant also questions the level of the ground floor noting it was to be 0.8m lower than the building it replaced and the constructed structure is causing severe overshadowing of the appellant's property.
- The appellant is critical of the Planning Authority's assessment and dealing with the application and in particular raises concerns that works were not ceased despite breaches in planning permission.
- The appellant raises concern regarding the boundary wall between the appeal site and her property. The appellant is of the view that there is commitment to raise the boundary wall on foot of the permission granted (drawings and conditions). It is noted that at present the eaves of no 38 at the gable end extends over the airspace above the boundary wall.
- The appellant notes that downlights are to be attached to the overhang of the extension with concerns that such would cause light pollution and nuisance for the appellant. The appellant reiterates the need for increase in the boundary wall to protect privacy and limit noise.
- The appellant requests that the Board overturn the decision to grant as it is a breach of planning laws.

6.2 Responses

6.2.1 Response by Dun Laoghaire Rathdown County Council.

- The Planning Authority refer to planning report associated with this application and note that the grounds of appeal do not justify a change in attitude to the proposed development.

6.2.2 Response by O'Connor Whelan Planning Consultants on behalf of the applicants, Denis & Aoife O'Connor.

- The application outlines the background of the proposal including enforcement action due to alterations during construction of the development

permitted under ref PL06D.244965. The applicants outline the amendments made and now subject to the proposal for retention and completion.

- The applicants note that the appellant is focused on the previous approval and not on the elements that are subject to the current application/appeal case.
- The appellant is incorrect in the assertion that the repositioning of the wall at the rear elevation at first floor level is more than the 133mm stated and such is clear in comparison to the plans permitted under ref no. PL06D.244965.
- The applicants disagree with the appellant's assertion that sufficient consideration was not given to her submission.
- In regards to the appellant's claims relating to the boundary wall it is noted that there was no proposal under previous permission granted to make any alterations to the existing boundary wall between no.s 38-39 with no reference to such in the drawings or public notices. It is noted that in their response to the third party appeal under ref no. PL06D.244965 the applicants' indicated that that boundary wall did not form part of the planning application and despite requests by the appellant for a condition to raise the boundary wall, the Inspector and the Board did not include such a condition.
- The appellant is incorrect and there is no overhang of the boundary wall.
- There are four down lighters proposed on the soffit of the ground floor extension, but such would have no impact on adjoining properties.
- The applicants believe the appeal is without substance or merit and request that the Board dismiss it as being vexatious or frivolous. The proposal is minor in scale and none of the amendments would have any impact on the residential amenities of adjoining properties.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Design, visual/residential amenity

Other issues

Appropriate Assessment

7.2 Principle of the proposed development:

7.2.1 Permission is sought for retention and completion of amendments to previously granted permission (reg. ref. D15A/0185, ABP ref. PL06D244965) comprising (a) ground floor extension of 17.5sqm to rear south-west corner, (b) re-positioning of first floor rear wall by 130mm to south east as a consequence of placement of steel structural supports beneath, (c) minor alterations to rear single-storey roof configuration and rear first floor window cills associated with the installation of a Bauder Extensive Green Roof System to flat roof to rear, (d) re-positioning of roof lights to flat roof to rear at ground floor level, (e) minor adjustments/reduction in overall dimensions associated with setting out and site conditions, (f) omission of 2 no. velux roof lights to south west elevation to side, (g) change from original large concrete roof tiles to 'red rosemary' type clay tiles to be more in keeping and (h) alteration to elevations associated with all of the foregoing. Permission has been granted for demolition of extensions, removal of chimney stacks to rear, new roof to entire house, new extension, velux roof lights, alteration to fenestration, new chimney stack and associated works under PL06D.244965. The current proposal seeks permission for retention and completion of alterations to the development permitted under PL06D.244965. The nature of the proposed development is similar to that permitted and the question that arise is whether the alterations have a significant impact over and above that of the permitted development on the visual amenities of the area and the residential amenities of adjoining properties. I would

consider that principle of the proposed development is acceptable and the proposal is contingent on the factors indicated above.

7.3 Design, visual/residential amenity:

7.3.1 The alterations proposed include an extended area above that permitted previously, an increase first floor area including repositioning the rear elevation at first floor level further south east, reconfiguration of the roof profile to facilitate a green roof, repositioning of roof lights serving the ground floor, change to cill level of first floor windows on the rear elevation, omission of two permitted roof lights and change of the roof tiles. The overall design and scale of the alterations does not significantly alter the visual impact of the extension and alterations permitted. I am satisfied that the change in roof tile would be acceptable. I would consider that the impact of the proposal would have no significant impact over and above that of the permitted development under PL06D.244965 on the visual amenities of the area.

7.3.2 In regards to the impact on residential amenity, the alterations subject to this application/appeal entail a marginal increase in the depth of the first floor area with the rear elevation at first floor level 130mm further south east, a 17.5sqm extension to the ground floor and an alteration to the roof profile, which entails a marginal increase in ridge height of the ground floor extension by 130mm. In the context of adjoining residential amenities, no.s 39 and 37, the alteration have no significant material impact over and above the permitted development and does not result in any unacceptable overshadowing or overlooking of adjoining properties. I am satisfied that the provision of the lighting in soffit of the extension to the rear would have no undue impact on the amenities of the properties on either side of the site. I would consider that the proposed development is satisfactory in regards to the visual amenities of the area, the residential amenities of adjoining properties and would be in accordance with the proper planning and sustainable development of the area.

7.3.3 The appellant raises a number of issues concern the design and dimensions of the proposal. In regards to the measurement of 130mm for the repositioned rear elevation at first floor level, I am satisfied that this is an accurate description of the

proposal. I am also satisfied that there has been no change in the finished floor level (ground floor level) of the extended area to the rear over that permitted under PL06D.244956. In relation to the appellant's claim that the proposal overhangs the boundary, I would consider based on site inspection that the structure on site does not appear to overhang the boundary. Notwithstanding such, issues concerning overhanging are a civil matter, in my view the extent and design of the structures on site are acceptable in regards to the residential amenities of the adjoining property. In regards to alterations to the boundary wall, the proposal subject to this appeal does not include any proposal for alterations to this boundary wall with no reference to such on the drawings or in the public notices. I would note that this is also the case with the drawings and public notices relating to PL06D.244965. As noted above I am satisfied that the proposal as sought and subject to this appeal has adequate regard to the amenities of all adjoining properties including no. 39 Woodlands Park.

7.4 Other Issues:

7.4.1 It is notable from the appeal submission that the appellant has serious concern regarding the carrying out of works subject to the previous permission on site under PL06D.244965. The appellant would appear to be annoyed about the carrying out of alterations in breach of the permission granted as well as being disappointed that works were not ceased on site when such came to light. In response to these issues raised I consider it important to note that the Board has no power and remit in regards to enforcement and all functions in this regard are functions of the Local/Planning Authority. The retention of works that have not been subject to or in accordance with a permission granted is permitted under the Planning and Development Act, 2000 (as amended) and the Board must assess such works on their merits. The impact of the proposal in relation to its merits, namely in regards to impact on the visual amenities or the area, the amenities of adjoining properties and in the context of the proper planning and sustainable development of the area have been assessed in the earlier the section of this report.

7.4.2 Having regard to the nature and scale of the proposed development and its 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.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

9.1 Having regard to the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, to the pattern of existing development in the area and to the design and scale of the proposed extensions, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic safety and convenience. 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 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. Save for the alterations permitted under this permission, the development shall be in accordance with the conditions set down under permission ref no. PL06D.244965.

Reason: In the interest of clarity.

3. 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.

Colin McBride
Planning Inspector

11th April 2017