



An
Bord
Pleanála

Inspector's Report

PL06D.247882

Development	Dwellinghouse, new entrance and other works at Bellevue House, Fey Yerra, Leopardstown Road, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D16A/0603
Applicant	Eoin and Emma McDonald
Type of Application	Permission
Planning Authority Decision	Grant
Appellant	David and Cherrie Lowe
Observer	Denis and Barbara Reardon
Date of Site Inspection	6 th April 2017
Inspector	Mairead Kenny

1.0 Site Location and Description

- 1.1. The site is taken from part of the rear garden of a two-storey hipped-roofed detached house known as Bellevue House. The site is now in the ownership of a family member and comprises the entire holding under their control.
- 1.2. The stated site area is 0.046 hectares. It is surrounded to the north / north-east by Torquay Wood a low density residential estate of detached houses, to the north / north-west by more recently constructed semi-detached houses (8no.) in a small residential cul de sac known as Fey Yerra Woods and to the east by an infill house known as Ruskin House.
- 1.3. The entrance to Ruskin House is adjacent an entrance, which serves Bellevue. Both entrances connect to what appears to be a private road known as Fey Yerra, which serves the new estate and other residential development. Ruskin House is accessed from a number of steps to the front. Both the main living space and the deck are elevated above garden level by about 1.7m. There are clear views over the site and surrounding area from the rear deck level of Ruskin House.
- 1.4. Immediately adjacent the rear of the site is no. 8 Torquay Road. This detached two-storey house is sited over 2m above the site of the proposed development. There is a single window at first floor level at the gable wall facing the site.
- 1.5. Photographs of the site and surrounding area which were taken by me at the time of my inspection are attached.

2.0 Proposed Development

- 2.1. Permission is sought for a detached dwellinghouse of 222.5 square metres. The proposed two-storey house would be of I-shaped plan and of two storey height with space to accommodate an attic level. Two parking spaces are proposed and access is to be by way of the cul de sac road of Fey Yerra Wood.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including:

- Restriction on exempted development rights
- Use of manufactured opaque or frosted glass in upper two panes of stairwell window and the high level ground floor window facing Ruskin House
- Tree bond of €10,000 especially in relation to tree 0466, monthly visits to site in construction phase by arboricultural consultant to ensure implementation of recommendations of tree reports and plans
- Suitable landscape plan to be agreed
- Revised entrance plans to be agreed
- Driveway / parking to be constructed with SUDs and drainage not to enter Fey Yerra
- Contributions including in relation to Luas B1.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's original report notes the mature grounds of Bellevue House which contribute to the sylvan character of the area. Development acceptable in principle. Concerns in relation to Ruskin House. Proposed development will read as 3m above the boundary wall and 6.5m to ridge level. This would be visually obtrusive and have a significant overbearing impact when viewed from garden of Ruskin house. Could be ameliorated if house relocated and suitable planting provided. Further information required.

The subsequent report refers to the revised layout , which is considered acceptable. To relocate the house further from Ruskin House would have consequences for the view from Fey Yerra Wood and for the availability of space for tree planting on site. The trees which are to be removed are Category C trees with a life expectancy of under 10 years. Other details are adequately addressed. Notes that the access cuts across the visitor parking in Fey Yerra.

3.2.2. Other Technical Reports

Parks – no objection. Recommends tree bond in relation to tree 0466 especially. Arboricultural agreement, retention of qualified arborist on site for the entire period of

construction to visit on a monthly basis at minimum. Recommendations of tree report and agreement prior to commencement of location and sizes of tree planting.

Transportation Planning – clarify discrepancies and details of vehicular entrance.

Surface Water Drainage – more information relating to SuDS proposals required.

3.3. Prescribed Bodies

Irish Water – further information requested relating to connection to foul sewer to Fey Yerra. Subsequently recommends conditions.

3.4. Third Party Observations

Letters received from the appellant and the observer. Also submission from residents of Torquay Wood.

4.0 Planning History

PAC/274/15 – pre-application consultations.

Part V exemption certificate granted.

Reg. Ref. D16A/0249 – invalid.

D08A/0606 – permission granted to modify existing house including additional set of gates from access road.

D08B/0072 – permission refused for modifications to existing house. Refused including for reasons relating to overbearing impact on the adjoining dwelling.

D11A/0054 relates to permission granted at Fey Yerra Wood for 7 houses and D13A/0016 for an additional house and for amendments to previously approved house.

5.0 Policy Context

5.1. Development Plan

RES4 refers to densification of residential areas. Section 8.2.3.4(v) sets out policy for residential development at corner / side gardens. Infill development is addressed under section 8.2.3.4(vii). Zoning objective A applies – ‘to protect and / or improve residential amenity’.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appellant resides at Ruskin House which is to the rear of the proposed house and the main points of the appeal include

- No objection in principle – concern only in relation to the injurious impact on their amenity and privacy and the level of tree felling
- Development would be overbearing and seriously injurious to the residential amenities of the area and permission should be refused
- Inadequate consideration by planning authority of planning history and development plan policies
- The permission previously refused under D08B/0072 related to a house which was smaller and lower than the proposed house (only 4.14m high) albeit closer to Ruskin House
- The overall height above the boundary wall will be 6.5m and it will be 13.7m in width – this is a very substantial structure close to the rear of Ruskin House and involves removal of 3 no. substantial trees which could be retained if the house was re-positioned
- Overlooking between the existing and proposed houses contravenes zoning
- The further information submission actually increased negative impacts
- A number of conditions are recommended in the event that permission is granted and drawings enclosed

- The request to refuse permission is reiterated however.

6.2. Applicant Response

6.2.1. The applicant is building the house in the garden of Bellevue House, which is in family ownership and the appeal may be summarised as follows:

- Including in relation to development plan policies, the appeal does not present any substantive reason why the proposed development should not be located as proposed and the planning authority has no issue with the design, location and massing
- The conclusion that the development would be overbearing is unsustainable having regard to the range of concessions to the first party and the proposed trees which are specified in the conditions
- The third party should acknowledge the distance of the proposed development from their house and the trees within their garden
- The revised layout provided additional lands for screen planting which will result in minimal impact on the house when viewed from Ruskin House – the proposed house will effectively be masked by trees
- Tree removal proposed is necessary and the replacement planting will ensure that the verdant nature of the site is maintained and reinforced
- The appellant's proposal that the proposed house be setback 1.8m from the boundary to Bellevue House is at odds with the concerns made in relation to previous repositioning of the house by 800mm
- The suggestion that the proposed development be reduced in height by 0.5m is at odds with the desired aesthetic and storage requirements and would have minimal impact in terms of sun / shadow
- The suggested restriction on exempted development rights is unnecessary
- The requested refusal of permission is excessive and unsupported.

6.3. Planning Authority Response

- 6.3.1. The planning authority refers to section 8.2.8.4(ii) of the development plan which relates mainly to overlooking of opposing first floor windows and requires a rear garden depth of 11m. In this case fenestration avoids overlooking. In any case there is allowance to relax standards on a case by case basis.

6.4. Observations

- 6.4.1. An observation has been received from residents of Bellevue House. The development of a house by their daughter is welcomed. Bellevue House has been overlooked by both Ruskin House and 8 Torquay Wood since their construction in the 1980s. The roots of trees which are to be removed have damaged boundary walls. A large chestnut tree which was removed was diseased. The proposed development makes good use of the land.

7.0 Assessment

- 7.1. I consider that the main issues arising in this case relates to the design and layout of the proposed development and its impact on adjacent houses, to the associated issue of tree removal which is of particular concern to the appellant and finally to other matters including the arrangements for access.

7.2. Impact on adjacent residential properties

- 7.2.1. The appellant's house includes high level patio doors to the main kitchen-diner and a high level deck which accommodates an outdoor seating area located above the level of the garden. I formed the impression during site inspection that the deck due to its level and orientation and position relative to the tree canopy would constitute a very attractive amenity area which I have no doubt is valued by the occupants. In its present configuration the outlook from Ruskin House is largely one of tree canopies, attractive walls and the rear of Bellevue House. The new houses at Fey Yerra Woods are a distant feature. The position and orientation of no. 8 Torquay Wood are such that this house despite its close proximity and elevated location is not highly prominent in views from the deck.

- 7.2.2. The observer's house which is owned and occupied by relatives of the applicant retains a large garden to the front (south-west) and to the rear is a parking area from which there are views to Ruskin House. No other observations were lodged with the Board which the applicants state is an indication that the revisions undertaken have addressed concerns.
- 7.2.3. I consider that the existing character of Ruskin House would be materially altered by the proposed development. The two-storey house with roof ridge height of 18.75m (above ground level of approximately 10m) is a substantial structure when viewed from Ruskin House. The width of the relevant two-storey element is such that its entire length would be visible from the appellant's deck level. The building would be dominant in views from the appellants house. The amended design provides an appropriate area for the planting of trees which are adequate to partly screen and to soften the appearance of the building but it would remain very clearly visible extending by 6.5m above the level of the high boundary wall between the site and Ruskin House.
- 7.2.4. The issue for the Board to determine is primarily whether or not the material alteration to the character of the existing view is compatible with the residential amenities of the area and complies with the development plan policies.
- 7.2.5. The site of the proposed development is prominently positioned relative to the appellant's amenity space. In terms of development plan policy I note and agree with the comment in the planner's report is acceptable in principle. In assessment of the development I consider that the main concerns are the height and length of the development as viewed from Ruskin House.
- 7.2.6. I have referred above to the change in character which would result from the development. Such changes are the inevitable consequence of the development plan policies to 'densify' existing areas as set out in policy RES4. Development management guidance in sections 8.2.3.4.(v) in particular is relevant in relation to policy for corner sites.
- 7.2.7. Section 8.2.3.4(vii) which relates to infill development and requires that development respect the height and massing of existing residential units and retaining the physical character of the area. In terms of the wider area I consider that this is largely fulfilled.

- 7.2.8. In terms of criteria under 8.2.3.4(v) the scale of development is relevant. The appellant considers that the house is substantial in size. My opinion is that the proposed house of 222 square metres would not be deemed to be excessive on this 0.046 hectare site. However, I am of the opinion also that by reason of the height, length and 4m setback from the shared boundary it would constitute an overbearing feature, which would reasonably be described as visually obtrusive.
- 7.2.9. I note that the original report of the planning authority raised concerns in this regard but that the amendments under the further information submission resulted in a form of development which was deemed to be acceptable. These amendments in the view of the appellant exacerbated the impact, which is a position for which there is no support in my opinion. Neither however can I find grounds for agreement with the final stance taken in the planning report – the setback of the building by the additional 1.5m and the introduction of a line of birch trees are not in my opinion sufficient remedy to address the concerns set out in the original planner’s report, which I consider are reasonable. I agree with the appeal statement that the negative impact on the residential amenity of Ruskin House is not substantially changed by the revised submissions.
- 7.2.10. I conclude that the development having regard to the pattern of development in the area including the design of Ruskin House and the presence of the deck and the proximity of the development to the boundary wall would have an undue, excessive and unacceptable impact on the amenities of that house.
- 7.2.11. In relation to the garden level at Ruskin House I do not consider that there would be a significant impact due in particular to the relative ground levels and the height of the boundary wall, both of which result in limited views towards the site from the garden. I have also considered the development in terms of overlooking and note the recommended planning conditions which I consider are sufficient to address this matter. Overshadowing is not likely to be significant.
- 7.2.12. The Board is referred to the parties comments relating to conditions. I consider that the restriction on exempted development provisions *is* appropriate. Further I consider that a reduction in the height of the building would be appropriate if permission is granted, notwithstanding the applicant’s submissions relating to requirements for storage and the design aesthetic . I also consider that a further

setback of the proposed house in the direction of Fey Yerra Wood would not adversely impact on the amenities of that street having regard to the design of the house and the single storey element and the landscaping and boundary wall.

7.3. Tree removal

7.3.1. In relation to the appeal submission the primary concerns include the felling of trees. I consider that the removal of trees as proposed is entirely reasonable. I agree with the applicant that the trees to be removed are damaged by the boundary wall, that the retention of the orchard trees is not compatible with development of the site and that the trees have a short lifespan of less than 10 years. These comments are supported by professional reports presented to the planning authority. All trees on site were tagged at the time of my inspection and the decision of the planning authority set out particularly detailed conditions in relation to the protection of tree 0466 in particular. I consider that these conditions together with the condition relating to a landscape plan would provide for appropriate planting and landscaping of the site in the long-term.

7.3.2. Other issues

7.3.3. Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

7.3.4. I consider that any possible material breach of permissions pertaining to permitted development at Fey Yerra Woods is an enforcement issue. I note also the planning condition relating to the revised entrance arrangement which I consider is sufficient response.

7.3.5. A certificate of exemption under Part V has been secured.

7.3.6. A supplementary contribution towards Luas is payable.

8.0 Recommendation

8.1. I recommend that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

9.1.1. The site of the proposed development is located in an area for which the stated zoning objective in the current Dun Laoghaire-Rathdown County Development Plan is to protect and/or improve residential amenity. Having regard to the pattern of development in the area and to the height, length and position of the house, it is considered that the proposed development, would seriously injure the amenities of property in the vicinity and would, therefore, be contrary to the proper planning and development of the area.

Mairead Kenny
Senior Planning Inspector

21st April 2017