



An
Bord
Pleanála

Inspector's Report PL06D.247926

Development

Permission will consist of demolition of existing carport, garden sheds, part of existing single-storey side extension and part of the side to boundary wall to existing dwelling and construction of part two-storey, part single-storey dwelling in the side garden.

Location

7 Leopardstown Avenue,
Leopardstown, Dublin 18.

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D16A/0800

Applicant(s)

Aodan Marnell & Clare McAndrew

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First-v-Refusal

Appellant(s).

Aodan Marnell & Clare McAndrew

Date of Site Inspection

06th April 2017

Inspector

Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.03 hectares, is located south of Stillorgan in a residential area to the east of the N31. The appeal site is on the south side of Leopardstown Avenue and is a corner site located at the junction of Leopardstown Avenue and Leopardstown Park. The appeal site is occupied by a two-storey semi-detached dwelling (no. 7). To the west of the site is no. 5 Leopardstown Avenue, which is the other dwelling that makes up the pair of semi-detached dwellings no. 7 is part of. To the south is no. 1 Leopardstown Park, which is also a two-storey semi-detached dwelling. On the opposite corner of the junction (south east) is a recently constructed detached two-storey dwelling constructed in the garden of no. 9 Leopardstown Avenue.

2.0 Proposed Development

2.1. Permission is sought for the demolition of existing carport, garden sheds, part of existing single-storey and part of side to boundary wall to existing dwelling and construction of part two-storey, part single-storey dwelling in the side garden. The proposed dwelling has a floor area of 150.9sqm. The proposal entails subdivision of the site associated with no. 7 Leopardstown Avenue and the construction of a new dwelling in its side garden. The proposed dwelling features a flat roof profile with a ridge height of 6.68m. External finishes consist a mix of render and a brick finish. A new vehicular entrance is proposed to the side of the site (Leopardstown Park) with off-street car parking for two cars.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on one reason.

- 1. Having regard to the length of the single-storey element to the rear of the proposed dwelling, it is considered that the proposed development would be*

visually overbearing and would detract from the residential amenity of No. 7 Leopardstown Avenue, would not comply with Section 8.2.3.4(v) of the 2010-2016 Dun Laoghaire Rathdown County Development Plan, would materially contravene the zoning objective of the site 'A' – "To protect and/or improve residential amenity", and would, therefore be contrary to the proper planning and sustainable development of the area.

3.2. Local Authority and External reports

- 3.2.1. Transportation Planning (16/12/16): Further information required including submission of a speed survey, and details of dimensions and layout of proposed vehicular entrance.
- 3.2.2. Irish Water (30/11/16): No objection.
- 3.2.3. Drainage Planning (28/10/16): No objection subject to conditions.
- 3.2.4. Planning Report (19/13/16): The length and height of the proposed single-storey portion of the proposed dwelling was considered excessive and to have an adverse impact on the residential amenities of the existing dwelling on site. Refusal was recommended based on the reason set out below.

4.0 Planning History

- 4.1 No planning history on the site.
- 4.2 PL06D.220373: Permission refused to demolish mews annex (in office use) and construct house with vehicular entrance onto Leopardstown Park at 9 Leopardstown Avenue. The site in this case is located on the opposite side of Leopardstown Park to south east of the appeal site.

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 first party appeal has been lodged by Thornton O'Connor Town Planning on behalf of the applicants Aodan Marnell & Clare McAndrew. The grounds of appeal are as follows...

- The appellants are of the view that the proposal provides for an appropriate design that would not be contrary the zoning objective at this location. The proposal also provides for a development that meets the required development control standards and residential policies of the County Development Plan.
- The appellants note that the proposal including the single-storey element to rear is appropriate in design and scale with precedents for similar corner site developments. The appellants have submitted images of the development modelled in 3D to demonstrate the overall impact of the proposal.
- The appellants note that the proposal does not materially contravene the County Development Plan. The appellants note that under the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) that the Board could grant permission for the proposal under Section 37(2)(b)(iv).
- The appellants identify a number of precedents for similar type development on corner sites including no. 9 Leopardstown Avenue, no. 2 Leopardstown Avenue, no. 46 Leopardstown Grove and no. 2 Leopardstown Grove.

- The appellants have submitted a revised option to be considered as an alternative to the originally submitted proposals. The amendments include a reduced parapet height from 4.115m (3.94m above garden level of no. 7) to 3.6m (3.42m above rear garden of no. 7). Other amendments include omission of a chimney in favour of shorter flue, a lowered cill height for a first floor window and reduced roof thickness.
- In regards to car parking and vehicular entrance, it is noted that sufficient sightlines are available at this location.
- The appellants have taken on board the comments of the planning report including a revised window position for the study/den to the courtyard in the revised proposal submitted with the appeal.

6.2 Responses

6.2.1 Response by Dun Laoghaire Rathdown County Council.

- The response reiterates concerns regarding the scale and proximity of the rear single-storey portion of the proposed dwelling to the amenity space associated with no. 7. The appeal submission does not change the view of the Planning Authority towards the proposed development.
- In regards to the revised proposal it is noted that such does not deal with the Planning Authority's concerns and it is noted that the site could accommodate a new dwelling, however the current proposal is unacceptable.

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/scale, visual/residential amenity

Traffic impact

Other Issues

7.2 **Principle of the proposed development:**

7.2.1 The proposal is for subdivision of the site associated with no. 7 Leopardstown Avenue and the construction of detached dwelling and associated site works. The site is located in an established residential area and is zoned Objective A, 'to protect and/or improve residential amenity'. The proposal development is consistent with the zoning objective. The principle of the proposed development is acceptable with the main considerations the impact of the proposal on the visual amenities of the area, the amenities of adjoining properties and traffic safety with the proposal also contingent on the provision of an independent residential unit of a satisfactory standard. Such aspects are to be examined in the following sections of this report.

7.3 **Design/scale and visual/residential amenity:**

7.3.1 The proposal is for a detached dwelling with three bedrooms. The dwelling is a part two-storey, part single-storey dwelling with a ridge height of 6.665m. In terms of the relevant development control standards, there is a requirement of 60sqm of private open space for 3 bed or more dwellings (Section 8.2.8.4(i)). The proposed development entails the provision of 85.4sqm of private open space and allows for 197.5sqm of private open space to be retained with the existing dwelling within whose curtilage the site is located. This is well in excess of the requirements under Development Plan policy. In regards to car parking the requirement for a three-

bedroom dwelling is 2 spaces (Table 8.13). The proposal provides for two off-street car parking spaces and is in compliance with the Development Control standards.

7.3.2 In regards to overall visual impact, the height of the proposed development does not exceed the ridge height of the existing and adjoining dwellings and is significantly lower than existing dwellings due to its flat roof profile. The design of the dwelling is simple and contemporary in style and is modest in ridge height in comparison to existing dwellings. The proposal takes into account the external finishes of existing dwellings in the vicinity. I would be satisfied that the overall visual impact of the dwelling would not be significant or have an adverse impact on the visual amenities of the area.

7.3.3 In regards to adjoining amenity, the proposed dwelling conforms to the established building line with the two-storey element in keeping with both the front and rear building line of the existing dwellings to the west. The orientation of windows is in keeping with the pattern of development on adjoining sites. The proposal features a single-storey portion that extends 6.7m beyond the rear building line of no. 7. This single-storey portion has ridge height of 4.115m (3.94m above garden level of no. 7).

7.3.4 Permission was refused solely on the reason that it was considered that the single-storey portion would be visually overbearing and would detract from the residential amenity of No. 7 Leopardstown Avenue, and would, therefore, not comply with Section 8.2.3.4(v) of the County Development Plan. Although the single-storey portion does extend a significant amount beyond the rear building line, it is a single-storey structure. In addition, a significant amount of rear garden space is retained with the existing dwelling and the proposed structure is well separated from the existing dwelling at no. 7. At present there is car port/garage structure and significant planting along the south east boundary of the site and the proposal has no more of a significant physical impact that such in regards to the existing dwelling. I would consider that the proposal would be acceptable in regards to the amenities of the existing dwellings and would not be an overbearing element, result in any loss of privacy or unacceptable overshadowing of the existing property or any other adjoining properties. It is notable that the appellants/applicants have submitted revised plans that reduce the ridge height of the single-storey portion to 3.6m (3.42m

above rear garden of no. 7). I would consider that the alternative plans should be the one permitted. In this regard I would consider that the proposal would not be contrary to Development Plan policy including Section 8.2.3.4(v) in relation Corner/Side Garden Sites.

7.3.5 It is notable that the proposal features floor to ceiling glazing at first floor level on the rear elevation and that there is a flat roofed section on the single-storey portion of the development. I would recommend a condition that the flat roof area not be used for as a terrace area/amenity space.

7.4 Traffic Impact:

7.4.1 The proposal is for a new dwelling with vehicular access onto Leopardstwon Park with two off-street car parking spaces to the rear of the site. The access is onto a residential street with a carriageway width of 4m wide with footpaths along each side. Having regard to the nature and scale of development, the type and level of traffic generated would not entail a significant intensification at this location. The location and layout of the entrance would also be satisfactory in the context of sightlines/visibility. As noted earlier the proposal is compliant in regards to Development Plan standards for off-street car parking with two spaces provided. The proposed development would therefore be satisfactory in the context of traffic safety.

7.5 Other Issues:

7.5.1 The refusal reason notes that the proposal is a material contravention of Development Plan policy. Under Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) it is noted that “where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that” a number of circumstances apply (attached). In this case it could be argued that Section 37(2)(b)(iv) does apply, which states “permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the

development plan”. As noted in earlier sections of this report, I do not consider that the proposal constitutes a material contravention of Development Plan policy (Dun Laoghaire Rathdown County Development Plan 2016-2022. In addition, I would note that the refusal reason refers to material contravention of Development Plan policy under the Dun Laoghaire Rathdown County Development Plan 2010-2016, which has been superseded by the current Dun Laoghaire Rathdown County Development Plan 2016-2022 before the date of the Planning Authority’s’ decision.

7.5.2 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 residential zoning objective for the area, to the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable having regard to design and would not seriously injure the visual or residential amenities of the area. The proposed development would also be satisfactory in regards to 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 carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans submitted on the 26th day of January 2017, 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 flat roof area at first floor level shall not be accessible from first floor level and shall not be used as a terrace area or amenity space.

Reason: In the interests of residential amenity.

3. Site development and building works shall be carried out only between the hours of 0700 to 1800 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 disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

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 hours of working, noise management measures and off-site disposal of construction/demolition waste and a construction stage traffic management plan.

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

6. 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.

Colin McBride

Planning Inspector

20th April 2017