



An
Bord
Pleanála

Inspector's Report PL29N. 2447959

Development	House
Location	Beside 46 Cremore Lawn, Dublin 11
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	1410/16
Applicant	Gerard and Rosemarie O'Brien
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Gerard and Rosemarie O'Brien
Observers	None
Date of Site Inspection	20 th April 2017
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

- 1.1. The site is part of the curtilage of a semi-detached house in a suburban part of Dublin. It is on a corner plot in an estate of similar houses that date from the middle of the last century. The site is triangular in shape and has a stated area of 335m². The north-western boundary adjoins a pedestrian lane that links Cremore Lawn to the Old Finglas Road. The eastern boundary adjoins the curtilages of three houses along Addison Avenue. Those houses are terraced and three storeys in height. They have been built since the turn of the century.

2.0 Proposed Development

- 2.1. It is proposed to build a detached house on the site with a stated floor area of 117m² over two storeys with a roof ridge height of 6.74m. It would have a shared vehicular access with the house at No. 46.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for one reason which stated that the house which has dormer windows on a restricted backland site that would overlook adjacent residential properties and would seriously injure the amenities of the area and of property in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The proposed house would be larger than that for which outline permission was previously refused. There are concerns that the window of bedroom no. 1 of the northern elevation could overlook the back gardens of properties along Addison Avenue and that the roof window might overlook 85 Old Finglas Road. The proposed house might overbear the house at 46 Cremore Lawn. It was recommended that further information be sought regarding the location of windows, proposals to address overlooking and overbearing of neighbouring properties, and a

pedestrian link to the Old Finglas Road. The subsequent report stated that the matters of overlooking and overbearing had not been addressed. The layout of the development would be out of character with the houses in the vicinity. It would give rise to overlooking of adjacent properties. Permission should be refused.

4.0 Planning History

PL29N. 243817, Reg. Ref. 2882/14 – In January 2015 the board refused outline permission for a bungalow on the site that would have had access from the Old Finglas Road due to traffic hazard.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2016-2022 applies. The site is zoned residential under objective Z1. Section 16.10.9 of the plan refers to houses in side gardens. It says that they can constitute valuable additions to the residential built stock of an area and will generally be allowed on suitable large sites. They will be assessed against various criteria including their impact on the residential amenities of adjoining sites.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

- There are no windows at first floor level at the proposal is for a 1.5 storey house. The bedroom windows are at least 22m from the neighbouring development at Addison Avenue. They face north-east while the windows opposite face west, so there are no back-to-back bedroom windows.

- There is a dormer bungalow opposite the site on the Old Finglas Road which forms a precedent, so the proposed house would not be out of keeping with the character of the area. There are different types of dwelling in the area apart from monotonous banks of 2-storey houses, including the apartments at Addison Hall. The proposed house would comply with the standards for accommodation, plot ratio and site coverage set out in the development plan. There were no objections to the proposed house, which is intended to help the applicant's son on the property ladder.
- The concerns regarding the scale of the proposed house are unfounded. The further information submitted by the planning authority does not appear to have influenced its decision.

6.2. Planning Authority Response

None

7.0 Assessment

- 7.1. Section 16.10.9 of the development plan sets a generally favourable policy towards building houses in side gardens such as that now proposed, subject to compliance with normal planning criteria including the preservation of the privacy and amenities of adjacent residential properties. The proposed house would have windows at first floor level above the height of the boundary wall around the site. However the only ones onto habitable rooms where obscure glass could not be used would be facing north-north east, while the windows at the back of the neighbouring houses on Addison Avenue face west and the boundary with their back gardens runs north-south. The separation distance from the proposed and existing houses would be more than 22m. Given the separation distance and relative orientation, there would be only a minimal level of intervisibility between the existing and proposed windows that would not cause a significant injury to the privacy of the neighbouring houses. There would be a small degree of overlooking of the gardens behind the houses at Addison Avenue from the proposed house, but it would not undermine their function as private amenity space. Their perceived impact in this regard would be less than that which occurs in the existing garden on the appeal site due due to the rows of

windows at the back of the houses at Addison Avenue. In these circumstances it is not considered that the reason stated in the planning authority's decision would justify refusing permission in this case. The proposed house would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site.

- 7.2. The proposed house would have an adequate standard of internal accommodation and open space, and a reasonable level of open space would be left with the house at No. 46. The proposed house would not be prominent in views from either Cremore Lawn or the Old Finglas Road, and the distinction between its form and that of the other houses around it would not detract from the character of the area. There is an existing gate wide enough for vehicular access in the place where the access for the proposed house would be. So a safe access and adequate parking could be provided for the proposed development.

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 pattern of development in the area and its residential zoning under the Dublin City Development Plan 2016-2022, and to the standards for the development of houses on corner sites and side gardens set out in section 16.10.9 of that plan, it is considered that, subject to compliance with conditions below, the proposed house would not seriously injure the character of the area or the amenities of property in the vicinity 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 carried out and completed in accordance with the plans and particulars lodged with the application, as amended by those submitted to the planning authority on 7th December 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. 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.

3. The owners of the property at No. 46 Cremore Lawn, Dublin 11 shall grant a permanent right of way to the occupiers of the authorised house sufficient to provide a vehicular and pedestrian access to the authorised house from the public road in the manner shown on the site layout plan submitted to the planning authority on 7th December 2016.

Reason: In the interests of residential amenity and traffic safety

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. 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.

Stephen J. O'Sullivan
Planning Inspector

20th April 2017