



An
Bord
Pleanála

Inspector's Report PL06D.248099

Development

Retention permission for partial demolition of dwelling. Permission for demolition of remaining structure and reconstruction of dwelling.

Location

29 Cherrygarth Mount Merrion, Co. Dublin.

Planning Authority

Dun Laoghaire-Rathdown Co. Council

Planning Authority Reg. Ref.

D16A/0888

Applicants

Eimear Kenny & Jim Hickey

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellants

Mount Merrion Residents Association

Observers

none

Date of Site Inspection

12/5/17

Inspector

Siobhan Carroll

1.0 Site Location and Description

- 1.1. The appeal site is located at No. 29 Cherrygarth Mount Merrion. It is part the established residential area of Mount Merrion situated to the west of the N11 and between Stillorgan to the south and Fosters Avenue and Mount Anville Road to the north. Cherrygarth housing estate comprises a cul-de built in the 1960's and located immediately to the south of Tree's Road. It contains a mix of dormer and two-storey detached and semi-detached dwellings.
- 1.2. The stated site area is 967sq m. No. 29 a detached dormer dwelling is located on a corner site. The dwelling has been substantially demolished. The west facing front boundary and north facing side boundary is formed by a low block wall and mature conifer hedgerow. No. 15 to the east and No. 30 to the south, the adjacent dwellings are both detached dormer dwellings.

2.0 Proposed Development

- 2.1. The proposal involves permission for retention and permission for the following;
 - Retention of partial demolition of existing dwelling (144sq m),
 - Permission for further demolition of remaining roof structure, chimney and side extensions (10sq m),
 - Permission for reconstruction of the dwelling.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 12 no. conditions

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The application was made to regularise the situation. The proposed retention of demolition was considered acceptable. The proposed development was

previously deemed acceptable and there are no substantial or notable changes to the design, it was therefore considered acceptable. The matters raised by the third parties were noted and addressed by means of conditions.

3.2.2. Other Technical Reports

3.2.3. Drainage Planning – No objections subject to conditions

3.2.4. Transport Planning – No objections subject to conditions

3.3. Third Party Observations

The Planning Authority received 4 no. submissions/observations in relation to the application. The main issues raised concerned drainage, the proposed boundary wall, that the dwelling should be re-instated, that conditions should be attached referring to cleaning the area after construction, that footpaths, kerbs and verges should be reinstated and that there is a discrepancy regarding proposed finishes.

4.0 Planning History

Reg. Ref. D16A/0194 – Permission was granted for the demolition of an existing flat roof structure to the side, the construction of single storey cotemporary extensions to sides and rear, dormer structures to sides, full refurbishment of the existing house, alterations to all elevations, widening of existing vehicular entrance, addition of a pedestrian entrance to side on to Cherrygarth, increase the height of the side boundary wall to 2.1m and all ancillary works to facilitate the development.

5.0 Policy Context

5.1. Development Plan

5.1.1. The site is governed by the provisions of the Dun Laoghaire –Rathdown County Development Plan 2016-2022.

5.1.2. The subject site at no. 29 Cherrygarth Mount Merrion is located on Map 2 of the Dun Laoghaire Rathdown Development Plan and is identified as being Zoned Objective A ‘to protect and/or improve residential amenity’.

- Chapter 8 – Principles of Development

- Section 8.2.3.4 – refers to Additional Accommodation in built up areas
- Section 8.2.3.4 v – refers to Corner/Side garden sites

5.2. Natural Heritage Designations

- 5.2.1. The site is located approximately 2.3km from the South Dublin Bay and River Tolka Estuary SPA Site Code (004024).
- 5.2.2. The site is located approximately 2.3km from South Dublin Bay SAC Site Code (000210).

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Mount Merrion Residents Association on the 28th of February 2017.

- The matter of concern raised in the third party appeal refers to condition no. 2 of the permission granted under Reg. Ref. D16A/0888.
- The condition refers to surface water drainage. The appellants state that they have no objection in principle to soakaways. They have specific concern in relation to the design of the soakaway proposed for the scheme. They state that it is not in accordance with BRE Digest 365.
- A report prepared by Mc Kenna Pearce Practice, Consulting Engineers has been included with the appeal submission. It states that the area of proposed new development has a larger footprint than 158sq m as stated by the applicant's Consultant Engineers.
- Condition no. 2 states that *"the soakaway shall be a minimum of 5m from the building and shall have no impact on the neighbouring properties"*. The appellants consider that it would not be possible to construct the soakaway in accordance with the requirements of the BRE Digest 365 and ensure that the development would have no impacts on neighbouring properties.

- Condition no. 2 does not specify a minimum distance to be provide to neighbouring properties and it does not take into consideration the lower site levels of the neighbouring properties no's 15, 16 and 30.
- Flooding from an inappropriately designed or located soakaway could cause serious damage to neighbouring gardens.
- The appellants consider that the condition should be revised to ensure that the soakaway is designed in accordance with BRE Digest 365, that the soakaway be located a minimum distance of 3m-5m from the neighbouring boundary walls and require that prior to recommencement of construction works that the applicant submit a detailed rain harvesting plan in respect of the increase foot print of 158sq m to the Drainage Planning Section of Dun Laoghaire-Rathdown Co. Council.
- The appellants consider that the condition no. 2 does not adequately protect the neighbouring properties from the risk of flooding. They request that the Board amend the wording of the condition to take account of their concerns.

6.2. Applicant Response

A response to the third party appeal was received on the 28th of February 2017. The main issues raised are as follows;

- The applicant's Consultant Engineers have submitted revised proposals for the proposed soakaway. It is proposed to locate the soakaway a minimum distance of 5m to the site boundaries.
- The design of the soakaway includes a silt trap. This is proposed to further reduce the possibility of siltration.
- The area of roof draining to the soakaway has been increased from 110sq m to 125sq m. It is noted that the capacity of the proposed soakaway is significantly more than the area which is required.
- The design of the proposed soakaway is fully compliant with BRE 365 and it surpasses the requirement for size for 1:30 and 1:100 year events.

6.3. Planning Authority Response

- The grounds of appeal do not raise any new matters which would justify a change of attitude to the proposed development.

6.4. Further Responses

A further submission was received from Mount Merrion Residents Association on the 4th of May 2017.

- The appellants state that they welcome the revised proposals submitted by the applicant's Architect to locate the soakaway 5m from all boundary walls.
- The appellants state that the design of the soakaway as indicated on the submission from Kavanagh Ryan Services dated November 2016 is not in compliance with BRE Digest 365 as the base area was used to calculate outflows from the soakaway.
- The appellants sought the advice of BRE (Building Research Establishment) the publishers of the Digest 365 in order to establish whether the proposed soakaway design was in full compliance with BRE Digest 365.
- BRE issued a response to Mount Merrion Residents Association on the 3rd of May 2017 which advised that the test results cannot be relied upon in the design and therefore the proposal does not meet the requirements of Digest 365. It is noted in the response that the calculations appear to use a surface area of 27sq m which include the base and 50% of the effective depth. It is advised that the base should not be used in the calculation and therefore the proposal is not fully in compliance with Digest 365.
- The appellants request that the Board require that the applicants submit a revised plan for the proposed soakaway to the relevant authority to ensure that the design is fully in compliance with Digest 365.

7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of development and planning history
- Surface water drainage
- Appropriate Assessment

7.1. Principle of development and planning history

7.1.1. Under Reg. Ref. D16A/0194 permission was granted for the demolition of an existing flat roof structure to the side of the dwelling and the construction of single storey cotemporary extensions to the sides and rear with dormer structures to sides the full refurbishment of the existing house and alterations to all elevations. The current proposal to retain the partial demolition of the dwelling and permission for the demolition of the remaining structure and the reconstruction of dwelling seeks to regularise works which were carried out on foot of the permission granted under Reg. Ref. D16A/0194.

7.1.2. The proposed development in terms of the height, design, floor area and footprint are substantially the same as the that permitted under Reg. Ref. D16A/0194. Accordingly, I consider that the proposal is acceptable in principle.

7.2. Surface water drainage

7.2.1. The appellants have expressed concern specifically relation to the proposed soakaway. They have requested that the Board ensure that the soakaway is designed in accordance with BRE Digest 365.

7.2.2. As indicated on the Drainage Site Layout Drawing No: 16103-1 submitted with the application, it is proposed to locate the soakaway in the rear garden 5m to the south of the dwelling. Condition no. 2 of D16A/0888 refers to surface water drainage and states;

2. *Prior to any construction works, the applicants shall check that no surface water is discharged to the foul sewer/drain or vice versa, and, if that is the*

case, they shall make the necessary changes. The surface water generated by the 120m² proposed increase in footprint (roof and pavements), or an equivalent quantity of water from the existing building, shall not be connected to the drain/sewer, but it shall be infiltrated locally, to a soakpit or similar, as it has been proposed. The soakpit shall be designed to BRE Digest 365, shall be at a min. 5m from the buildings and shall have no impact on the neighbouring properties. The soakpit shall have no overflow pipe to the drain/sewer. If the applicants consider the soakpit is not feasible, the applicant shall prove that by submitting a report signed by a Chartered Engineer, showing tests done at two locations within the site (with photos, etc), and shall propose alternative SuDS measures.

REASON: In the interests of the proper planning and sustainable development of the area.

7.2.3. The appellants have requested that the proposed soakaway be located a minimum of 3-5m from neighbouring boundaries. It is advised in the BRE Digest 365 that soakaways should not normally be constructed closer than 5m to building foundations.

7.2.4. The appellants Mount Merrion Residents sought the advice of BRE (Building Research Establishment) in relation to proposal. In the response issued to Mount Merrion Residents Association on the 3rd of May 2017, BRE advised that the test results used by the applicant's Consultant Engineers Kavanagh Ryan Associates cannot be relied upon in the design and therefore the proposal does not meet the requirements of Digest 365. It is noted in the response that the calculations appear to use a surface area of 27sq m which include the base and 50% of the effective depth. BRE advised that the base should not be used in the calculation and therefore that the proposal is not fully in compliance with Digest 365.

7.2.5. In response to the appeal the applicant's Consultant Engineers Kavanagh Ryan Associates submitted revised proposals for the soakaway. Drainage Site Layout Drawing No: 16116-1 submitted to the Board on the 4th of April 2017 indicates the soakaway a minimum distance of 5m to the site boundaries to the neighbouring properties to the south and east. As indicated on the drawing the design of the soakaway includes a silt trap. It is highlighted by the Consultant Engineers

Kavanagh Ryan Associates that the area of roof draining to the soakaway has been increased from 110sq m to 125sq m. They state that the design of the proposed soakaway is fully compliant with BRE 365 and it surpasses the requirement for size for 1:30 and 1:100 year events.

7.2.6. Having regard to the advice issued by the BRE in respect of the proposed soakaway and the details and calculations provided with the application and appeal specifically in relation to the use of the base area for infiltration when calculating outflows, I consider that it would be appropriate to attach a condition to the permission requiring that the applicant submit full design calculations for the proposed soakaway for the written agreement of the Planning Authority.

7.2.7. The design calculations should be in compliance with the requirements of BRE Digest 365 'Soakaway design' to ensure that that the area and depth of the soakaway is designed to receive surface water from 125sq m of impermeable surface. Furthermore, the soakaway should be located a minimum distance of 5m from buildings and site boundaries to ensure that it has no undue impact upon neighbouring properties.

7.3. Appropriate Assessment

7.3.1. In relation to the matter of appropriate assessment, I consider that having regard to the nature of the proposal a dwelling and the nature of the receiving environment, namely a suburban and fully serviced location that no appropriate assessment issues arise.

8.0 Recommendation

8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be granted for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, to the planning history of the site, to the nature and scale of the proposed development and to the pattern of existing 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 residential or visual amenities of the area or of property in the vicinity and would not be prejudicial to public health. 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 retained, 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. 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. Prior to commencement of development the applicant shall submit full design calculations for the proposed soakaway for the written agreement of the Planning Authority. The soakaway shall comply with the requirements of BRE Digest 365 'Soakaway design' specifically it shall be located a minimum distance of 5m from

buildings and site boundaries and the area and depth of the soakaway shall be designed to receive surface water from 125sq m of impermeable surface.

Reason: In the interest of public health and to ensure a proper standard of development.

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 service cables associated with the proposed development (such as electrical, telecommunications and television cables) shall be located underground.

Reason: In the interests of visual and residential amenity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

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, 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.

Siobhan Carroll
Planning Inspector

18th May 2017