



An
Bord
Pleanála

Inspector's Report PL06S.248130

Development	Demolish house and construct new house
Location	Ormond, Scholarstown Road, Rathfarnham, Dublin 16
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD16A/0423
Applicant	John Burke
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellant	John Burke
Observers	1. Jim & Regina Dunne 2. John Taylor & Denise Begley
Date of Site Inspection	23/05/17
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site, on which there is a two storey dwelling with detached shed, has a stated area of 0.125 hectares and is accessed from the Scholarstown Road in South County Dublin. It is roughly rectangular in shape sloping away from the road towards the rear boundary. It is bounded by a large two storey dwelling to the east (Woodbury) the building line of which is forward that of the dwelling on the appeal site with windows at 1st floor level overlooking same. The shared boundary is delineated by a hedge to the front and side with a timber fence along the remainder to the rear. A two storey dwelling which has been extended to the rear, bounds the site to the west (Trouville). It has a comparable building line to that of the dwelling on the appeal site. A single storey dwelling accessed from the Boden Park estate bounds the site to the north-west, the site of which would originally have formed part of the rear garden of Trouville. The site's western boundary to these two dwellings is delineated by wire fencing and mature hedging and trees. Boden Park estate bounds the site to the north which comprises of two storey, semi-detached dwellings.
- 1.2. Scholarstown Road along the site frontage has not been improved and provides for a footpath on one side. The lands immediately opposite the site are currently being developed for residential purposes.

2.0 Proposed Development

- 2.1. The proposal entails the demolition of the existing two storey dwelling with a stated floor area of 240.38 sq.m. and detached garage and its replacement with a three storey over garden level dwelling with a stated floor area of 414.53 sq.m. with alterations to the roadside entrance and replacement of the septic tank with a proprietary wastewater treatment unit.
- 2.2. The ridge height as presented to the road is 8.998 metres with external finishes to be a mix of brick and render.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for three reasons which can be summarised as follows:

1. The siting, orientation, massing, height, scale and bulk of the proposal would seriously injure the amenities of adjoining property and would contravene the zoning objectives for the area.
2. The ground floor decking and 1st floor terrace would give rise to unacceptable overlooking and loss of privacy of adjoining property, would seriously injure their amenities and would be contrary to the zoning objectives for the area.
3. The demolition of the existing dwelling and its replacement would be contrary to Policy H17 Objectives 5 and 7 of the Development Plan which aim to ensure that developments within established areas do not impact negatively on the existing residential amenities and preservation of the established character of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer's report in the Record of Executive Business and Chief Executive's Order considers that taking into consideration the significant differences between the existing dwelling and the proposed dwelling, the proposed development by reason of its height, bulk, massing and overall scale would be out of keeping with the character of the existing dwelling and surrounding area, would result in overshadowing and an overbearing impact of the property to the east and west and would be visually dominant and obtrusive when viewed from the neighbouring properties. In addition, the proposed terrace at 1st floor level and decking at ground floor level would seriously injure adjoining properties by reason of overlooking and loss of privacy. The proposal would be contrary to the zoning objective for the area. The dwelling makes a strong contribution to the creation of a sense of place, character and legibility of the area. The demolition and replacement of the dwelling would be contrary to policy H17 objectives 5 and 7 of the County Development Plan. Any future application should address the issues detailed in the Roads, Water

Services and Environmental Health Officer reports. Given the location of the proposed demolition a Construction and Waste Management Plan should be required. A refusal of permission for three reasons is recommended.

3.2.2. Other Technical Reports

Roads Section requires further information on the layout of the proposed entrance and height of entrance piers, gates and boundary walls.

The Environmental Health Officer requires further information on site suitability for the proprietary effluent treatment system and details of same.

Water Services requires further information on the site suitability for the effluent treatment system and cross sectional view and design of proposed soakaway.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Observations received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those in the observations received on the appeal as summarised in section 6.3 below and pertain to impact on amenities of adjoining property in addition to site drainage.

4.0 Planning History

I am not aware of any previous planning application on the appeal site. The Planning Officer's report on file refers to the planning history in the vicinity including permission on the adjoining site to the east (Woodbury) to demolish existing dwelling and replace same under ref. SD14A/0039. The dwelling has been constructed.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

The site is within an area zoned RES, the objective for which is to protect and/or improve residential amenity.

H17 Objective 5 – to ensure that new development in established areas does not impact negatively on the amenities or character of the area.

H17 Objective 7 – to support and facilitate the replacement of existing dwellings with one or more replacement dwellings, subject to the protection of existing residential amenities and the preservation of the established character (including historic character and visual setting) of the area.

5.2. Natural Heritage Designations

None in the vicinity

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Manahan Planners on behalf of the 1st Party against the Planning Authority's notification of decision to refuse permission can be summarised as follows:

- The building to the west is at a higher level to the appeal property which, in turn, is at a higher level than the recently constructed building to the east. The existing dwelling has windows at 1st floor level in both gables which overlook the properties on both sides.
- The site to the east secured permission for the demolition of the dwelling and its replacement under ref. SD14A/0039. The permission enabled the building to have its main axis from front to back resulting in most of the windows facing towards the appeal property. It has resulted in serious and unacceptable overlooking.

- The property to the west secured permission for a dwelling in its back garden. The axis of the house runs in a north south direction and has rear windows facing onto the appeal property's rear garden.
- The extent of overlooking that currently exists from the existing dwelling to adjoining properties appears to be overlooked by the planning officer.
- The buildings on both sides are visually overbearing and overlook the property, leading to a significant loss of privacy and serious injure its amenities.
- There is a significant fall in site levels from the road. This change in level has informed the house design. It will present as two storey with attic accommodation to the road.
- The new building will have no overlooking windows in the gables which will be an improvement for the amenities of adjoining properties.
- The applicant is willing to accept a condition omitting the first floor level decking to the rear so as not to overlook the conservatory of the adjoining property.
- The character of Scholarstown Road has significantly changed in recent years. To say that the dwelling makes a strong contribution to the creation of a sense of place, character and legibility in this area, given that it is hardly visible, ascribes it an importance that it doesn't have.
- The new building is in accordance with the existing pattern of development in the area. The loss of the existing dwelling will not radically alter the sense of place in this location.

6.2. Planning Authority Response

The planning authority confirms its decision.

6.3. Observations

2 observations have been received:

6.3.1. **Jim & Regina Dunne** (occupants of 'Woodbury' to east of appeal site. Submission by McCauley & Associate Architects). The submission can be summarised as follows:

- There is no objection in principle to demolition and replacement of the dwelling. They would not necessarily agree with the planning authority's 3rd reason for refusal regarding retention of the existing house.
- The floor area of their dwelling is marginally smaller than that proposed but their site is c. 55% larger. The plot ratio on the appeal site would be significantly higher.
- The design is flawed in attempting to squeeze 4 floors of habitable accommodation onto the site. This necessitates raising the (false) ridge height c. 500mm above that of Woodbury with a consequent c.500mm raising of the proposed ground floor level. The proposed decking would be considerably elevated relative to the existing site levels and would permit overlooking and would be overbearing.
- The rear paved seating area to the rear of Woodbury is c. 1.6m lower than the external amenity area of the proposal.
- It will not be possible to satisfactorily achieve a visually acceptable false ridge detail in the 500mm dimension proposed. The detail should incorporate a conventional ridge tile. This will generate an increase in the dimensional depth required.
- The omission of the 1st floor terrace is noted.
- The existing hedge between the properties should be retained.
- The contiguous elevation drawing is incorrect in showing coincident ridge heights. The proposed ridge height would be 500mm higher and more extensive in having to contain the proposed flat roof.

6.3.2. **John Taylor and Denise Begley** (occupants of Trouville to the west of the appeal site)

- There is no objection in principle to demolition and replacement of the dwelling.

- Trouville was extended following permission. It maintained the south, east and west perimeter walls of the old cottage extending only to the rear and with no increase in height thus preserving the local amenity.
- The proposal is not in keeping with neighbouring buildings. It will be 1 metre taller than Trouville and will be 0.7 from the boundary to the west which will significantly impact on their amenities. Similarly, the bungalow to the north-east will be diminished by the scale, mass and height of the proposal.
- The removal of the 1st floor deck alone will not prevent overlooking which would arise from the 1st floor windows. Neither Trouville or the bungalow have windows to the rear that can overlook the proposal.
- The applicant argues that visual and residential amenity is not impacted upon but little or no evidence has been provided to support this.
- The appeal does not address site services and drainage, landscaping or the need for a construction waste management plan.

7.0 **Assessment**

7.1. I consider that the issues arising in the case can be assessed under the following headings:

1. Principle of Development
2. Suitability of Design
3. Site Services
4. AA- Screening

Principle of development

7.2. The site is within an area zoned RES the objective for which is to protect and/or improve residential amenity. There is a positive presumption towards the replacement of existing dwellings as set out in H17 Objective 7 subject to the protection of existing residential amenities and the preservation of the established character of the area. This is largely reiterated in H17 Objective 5 which seeks to ensure that new development in established areas does not impact negatively on the amenities or character of the area. As such the proposed demolition of the existing

dwelling and its replacement is acceptable in principle, however there is an obligation to reconcile the need to meet the requirements of the applicant seeking to maximise accommodation with the need to protect the residential amenities of adjoining properties.

Suitability of design

- 7.3. As noted by the agent for the applicant the immediate vicinity is characterised by a mix of house designs and sizes. Those along Scholarstown Road to the east and west of the site comprise of detached dwellings on large plots whilst Boden Park housing estate to the north comprises mainly of two storey semi-detached units with a single storey dwelling developed on what was originally part of the adjoining dwelling's (Trouville) rear garden bounding the site to the north-west. A residential development is currently under construction to the south immediately opposite the site. A number of dwellings along this stretch of road have been extended or redeveloped, notably that immediately to the east (Woodbury) which has a number of windows at 1st floor level in its western elevation overlooking both the front and rear of the appeal site while the dwelling to the west (Trouville) has been extended to the rear.
- 7.4. As such I would concur with the agent for the applicant that the area has, and continues to undergo change and, as such, the demolition of the dwelling and its appropriate replacement would not have a material impact on the character of the area. I would therefore not concur with the substance of the planning authority's 3rd reason for refusal.
- 7.5. At the outset I note that by reason of the existing ground levels the site is marginally lower than Trouville to the west and marginally higher than Woodbury to the east.
- 7.6. The replacement dwelling comprises three levels with attic accommodation with the garden to be excavated providing for 'garden level' accommodation to the rear. It presents as a two storey dwelling with dormer window to the front elevation with a ridge height of 8.998 metres which is 1.066 metres higher than that to be demolished. In itself I have no objection to the increase in height as viewed from the roadside (south) relative to the adjoining dwellings as they are not homogenous in layout or design and are within generously proportioned plots.

- 7.7. In such suburban locations mutual parallel overlooking between sites is endemic however I submit that the circumstances arising as a consequence of the house design in Woodbury with windows in the elevation facing onto the appeal site is not a common occurrence and certainly gives rise to material overlooking of the appeal site.
- 7.8. Whilst the house design takes due cognisance of the fenestration of the adjoining house and avoids windows serving habitable rooms along the side elevations, I submit that issues arise with respect to the design solution to the rear and the decking/terracing proposed at ground floor level. Resulting from the excavations to provide for the 'garden level' accommodation the terracing at ground floor level will have a finished floor level of 81.93 which is in the region of 1.2 metres higher than the existing levels on the site (80.71 in the general area of the proposed decking/terrace as delineated on the site plan of the existing site). The decking/terrace is then to step down to a finished floor level of 80.73 in the area of the garden which has an existing level of 80.26.
- 7.9. As acknowledged by the agent for the applicant the site is higher than that of Woodbury. I estimate that the existing dwelling on site to be in the region of 0.8 metres higher relative to the finished floor level of Woodbury. As in the appeal site the rear garden of Woodbury slopes down from south to north towards the rear boundary. I estimate that the rear part of the site is in the region of 0.5 metres higher than the rear garden of Woodbury.
- 7.10. I submit that the increase in the differential between the site levels and the extent of the amenity provision proposed (decking/terrace to have finished level of 81.93 for a depth of 5.5 metres from the rear wall reducing to 80.73 for a further 4.3 metres) would result in the amenity space being elevated over the adjoining site and would increase overlooking and consequent loss of privacy to an unacceptable degree. The fact that the sites already experience a material level of overlooking cannot be seen as justification for the development as proposed.
- 7.11. The current extensive planting along the western boundary currently precludes any material overlooking to Trouville but, by reason of the enlarged footprint of the dwelling and terraced areas in close proximity to the shared boundary, it is reasonable to assume that the planting within the site would have to be materially cut

back to accommodate same and therefore the potential for overlooking. In terms of the single storey dwelling to the north-west which backs onto the shared boundary the site layout plan indicates that the existing planting to the rear of the site is to be retained. Again were this planting to be removed issues of overlooking would be profound.

7.12. Whilst the 1st floor terrace can be omitted by way of condition I do not consider that the issues arising at ground floor level can be addressed satisfactorily by way of condition without requiring material alterations to the house design.

7.13. I would also submit that although there is no objection to the dwelling as presented to the front (south) elevation, the rear elevation by reason of its scale, bulk and massing cannot reasonably be accommodated on such a site without having an overbearing impact on adjoining property.

7.14. I therefore concur with the planning authority's first and second reasons for refusal.

Site Services

7.15. In terms of services I consider that any issues arising in terms of sight line improvement at the proposed front entrance can be addressed by way of condition. In addition, I note that the dwelling is served by the existing septic tank located to the rear of the garden and which is to be replaced. No details have been provided regarding the replacement system. In this regard I submit that there is an established house with an established effluent disposal system over which the applicant has the necessary rights and control. The system serves the established needs of a family that are residing at the dwelling. While the proposed dwelling and additional sanitary facilities could potentially increase the loading on the disposal system the applicant is in the position to undertake the necessary works to carry out any upgrade.

AA- Screening

7.16. Having regard to the location of the site on zoned and partly serviced lands and the nature and scale of the proposed development 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

I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The proposed development would seriously injure the amenities of adjoining property by reason of overlooking and loss of privacy from the proposed ground floor decking/terrace and 1st floor terrace to the rear elevation and would, therefore, contravene materially the RES zoning objective for the area as set out in the current Development Plan which seeks to protect and/or improve residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed dwelling by reason of its size, scale and massing as viewed from the north would give rise to an overbearing appearance and would be visually obtrusive when viewed from adjoining properties. The proposed development would, therefore, seriously injure the visual and residential amenities of property in the vicinity and would be contrary to the RES zoning objective for the area as set out in the current South Dublin County Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Planning Inspector

May, 2017