



An
Bord
Pleanála

Inspector's Report PL 29S 248289

Development	Single storey, two-bedroom house with pitched roof gated vehicular and pedestrian entrance and associated site development works.
Location	Templeogue Road. (West of No 40 Templeogue Road and east of No 35 Rathdown Park.) Dublin 6W.
Planning Authority	Dublin City Council.
P. A. Reg. Ref.	2057/17
Applicant	John Doody,
Type of Application	Permission.
Decision	Grant Permission.
Appellant (1)	David and Nicola Quirke,
Observer, (1)	Terenure Residents Association
Observer (2)	Gavin and Carol Walsh
Date of Inspection.	9 th June, 2017
Inspector	Jane Dennehy.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Prescribed Bodies	Error! Bookmark not defined.
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Applicant Response	6
6.3. Planning Authority Response	8
6.4. Observer Submissions	8
7.0 Assessment	Error! Bookmark not defined.
8.0 Recommendation.....	Error! Bookmark not defined.
9.0 Reasons and Considerations.....	13
10.0 Conditions	14

1.0 Site Location and Description

- 1.1. The site which has a stated area of 260 square metres is a subdivision of the rear garden of No 35 Rathdown Park which is a semi-detached two storey house located at the corner of Templeogue Road and Rathdown Park with an extensive side boundary wall circa two metres in height along the frontage onto Templeogue Road (R139) is a main urban route between Terenure and Templeogue. This road also is a bus and cycle route.
- 1.2. To the east side is an end of terrace cottage facing onto Templeogue Road. There is dense planting on either side of the boundaries between the appeal site and the property at No 40 Templeogue Road.

2.0 The Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:

Construction of single storey two bedroom detached house with a stated floor area of eighty-seven square metres on the site with a new vehicular and pedestrian entrance directly onto Templeogue Road along with landscaping and boundary treatment.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order dated, 9th March, 2017, the planning authority decided to grant permission subject to eleven conditions all of which are of a standard nature.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The planning officer having considered the planning context, planning history, technical reports and four observer submissions considered the proposed development to be consistent with development plan objective and standards for

side garden and corner site development and indicated a recommendation that permission be granted.

3.2.2. Third Party Observations

Four submissions were lodged with the planning authority. The main concerns expressed include:

- Consistency with the R2 (residential conservation area” Z1” zoning objective).
- Backland development.
- Insufficient private open space provision for proposed and existing dwelling.
Adverse impact on residential amenity by way of overlooking, overshadowing, visual impact and encroachment on adjoining properties.
- Endangerment of public safety and congestion due to the proposed new vehicular entrance.
- Undesirable precedent for similar development.

4.0 Planning History

There is a prior planning history for the appeal site details of which are set out below:

PL 29S 246359/P.A. Reg. Ref 4154/15: Further to third party appeal, the planning authority decision to grant permission for a single storey two-bedroom house was overturned for reasons relating to configuration and layout resulting in adverse impact on the amenities of adjoining property and on the established character and pattern of development in the area.

P. A. Reg. Ref. 09/2324: Permission was refused for a part single storey and part two storey house for reasons relating to incompatibility with the established pattern and character of development of the area, insufficient private open space, and undesirable precedent.

P. A. Reg. Ref. 1966/06: Permission was refused for a two storey house.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective: Z2: to protect and/or improve the amenities of residential conservation areas.

Development management criteria and standards are set out in chapter 16 and appendix 17. Standards for backland development are in Section 16.8 and standards for side garden and corner site development in section 16.9.10.

6.0 The Appeal

6.1. Appeal by David and Nicola Quirke.

An appeal was received from, the appellants who reside at No 33 Rathdown Park on their own behalf on 4th April, 2017. In the appeal, it is stated that the appellants upgraded their property to maximise the outlook from and light to the rear of the house and submit that the proposed development would adversely obstruct and dominate the views from their house at upper floor and ground levels. According to the appeal:

- This application is the fourth application, (with minor modifications) for the site and there is existing relevant precedent for refusal of backland development in Rathdown Park under P. A. Reg. Ref. 2129/10
- The proposal is visually obtrusive and is too close in proximity to the boundaries of adjoining properties and just fifteen metres from the rear of No 33 Rathdown Park. There is inadequate separation distance from the boundary wall and overshadowing and obstruction of outlook and daylight would occur the dwelling height being 4200 mm whereas the wall height is 1500-1600 mm. Overlooking of the back garden of the appellants' property from two large windows for the kitchen area would occur.

- The dwelling design is unsightly and out of context with the surrounding development. It is an elongated arrow shaped structure which would be an eyesore in views from the appellants' property.
- The on-site carparking area is too close to the appellants' property having regard to potential noise and light impact circa five metres from the rear of their house.
- The reasons for refusal of prior applications, particularly the proposal under P. A. Reg. Ref. 1966/06 cannot be overcome by design revisions having regard to zoning, building line and amenities of adjoining property particularly No 40 Templeogue Road.
- The proposed development does not integrate into the existing pattern of development regarding the artisan cottages and the Stringer built houses on Rathdown Park and would have negative impact on the established architectural character of the residential conservation area. The architectural quality and context of the residential conservation area designation was not considered in the assessment,
- The planning officer referred to incorrect sections in the development plan in his assessment. Section 16.10.8 is applicable because the site is a backland site at the rear of an existing property or building line. A completely different determination would have been arrived at.
- 40 percent of the development abuts and 60 percent is setback 1.9 metres from the garden boundary of No 33 and the pitched roof at 4.25 metres is not 'modest'. The development is not consistent with section 16.2.2.4 of the development plan which requires development not to result in insensitive alteration or characteristic boundary walls.

6.2. Applicant Response

A submission was received from the applicant's agent, Andrew Muldowney on 2nd May, 2017 which includes a detailed outline of the planning history, context, and the application. The case made in the submission is outlined in brief below:

- It is correct that the development, having regard to the development plan be considered as corner site/garden development as it addresses Templeogue Road and the rear of No 35 Rathdown Park. The inspector who considered the previous proposal applied the criteria in the development plan for infill housing. (PL 246259 refers)
- The relevant boundary for Nos 33 and 35 Rathdown Park is circa thirty metres long between the rear wall of the extension to No 33 and the boundary of No 40 Templeogue Road and the length between the proposed development and No 33 is 24.3 metres and the length of the proposed development adjacent to it is 6.25 metres of 26% of the boundary. The eaves height at this location is 2.55 metres (not 2.25 metres) which is acceptable. This section of the house is heavily screened by mature planting within the garden of No 33 Rathdown park which is more than three metres in height and this dense screen planting extends along most of the garden boundary wall.
- The proposed dwelling has little or no impact on sunlight at No 33 It comes behind the house for circa two weeks only in summer time. The proposed dwelling will not alter the existing scenario of shading and privacy provided by mature screening which is evident at the rear of the house at the appellant' s property.
- The dwelling will be visible from the rear of No 33 Rathdown Park but does not obstruct views from the upper floors but the appellant has no entitlement to preservation of views and overlooking of gardens in urban areas is the norm in urban areas. (photographs are included in the submission.) The privacy of the rear garden of the appellants' property will be unaffected.

However, the applicant, if required would be willing to lower the window heads in the east elevation from 2.1 to 1.8 metres above the finished floor level and or use opaque glazing at the upper area to allow fears of overlooking.
- The proposed development does respect the Z2 zoned, residential conservation area context and scale and character of adjoining properties especially the artisan cottages and it is noted that there is diversity in building character in the immediate area. The planning officer is satisfied that the

current proposal overcomes the concerns in the reasons for refusal of permission for the prior proposals. The proposal is in keeping with the existing pattern of development in the area the established character being a mix and somewhat haphazard mix of house types and styles.

- The development would not set undesirable precedent for proliferation of similar development. The only potential similar site is at No 41 Rathdown Park

6.3. **Planning Authority Response**

There is no submission from the planning authority on file.

6.4. **Observer Submissions.**

6.4.1. The submissions of the two Observer Parties are outlined below.

6.4.2. **Terenure Residents Association**

According to the submission received on 26th April, 2017 in which support for the appeal is indicated reference being made to the contentions as to diminution of amenity of the rear garden, the proximity to the boundary wall with 40 Templeogue Road, encroachment of the Templeogue Road building line, and impact on the established pattern and character of development and the “Z2” zoned residential conservation area and with regard to potential for precedent for further development at similar locations . It is also agreed with the appellants that the proposed development should have been assessed about development criteria for backland development.

6.4.3. Gavan and Carol Walsh, No 69 Templeogue Road.

A submission was received form the Gavin and Carol Walsh who reside at a property on the opposite side of Templeogue Road to the appeal site frontage. In the submission, they note the prior planning history and consider that the current proposal is a substantial development with minimal revisions and does not overcome the reasons for refusal. They also object specifically on grounds of:

- adverse visual impact on views from the front of their house,

- elimination of green space,
- undesirable precedent for reduction of garden sizes.
- Potential for additional traffic generation and traffic hazard it being considered that it would be necessary for vehicles to be reversed backwards out of the entrance onto the road near the VEC premises and Rathdown Park the junction at which is stated to be dangerous. It is submitted that the height of the boundary wall would exacerbate existing hazardous conditions on the road due to obstruction of visibility.

7.0 **Assessment.**

7.1. The application is a repeat application and according to the applicant's agent it satisfactorily overcomes the issues within the reasons for refusal of permission for the previous proposal under P. A. Reg. Ref. 4254/15/PL 246259. The planning authority decision to grant permission is subject to appeal by the occupants of No 33 Rathdown Park and to objections by the Terenure Residents Association and occupants of one of the properties on the opposite side of the Templeogue Road to the site frontage

7.2. The issues considered central to the determination of the decision are that of:

Site size, configuration and layout of the proposed development relative to surrounding development.

Impact on residential amenities of adjoining properties.

Impact on established pattern and character of development in the area

Impact on traffic and pedestrian safety and convenience.

7.2.1. Site size, configuration and layout of the proposed development relative to surrounding development.

While the subdivision of the existing garden and site size is unchanged from the previous proposal the footprint of the dwelling is revised so that the distance from dwelling footprint of the property at No 33 Rathdown Park is considerably increased with the dwelling being concentrated at the north-west end of the site adjacent to the

front side boundary with the cottage at No 40 Templeogue Road. (It appears that this habitable cottage is unoccupied at present, as has been advised in the observer submission of the Terenure Residents Association.) A 6250 mm length of the footprint for a utility area abuts the boundary and a 9250 mm length of the footprint is 1700 mm or 1900 mm (depending on whether the site plan or floor plan drawing are consulted) inside the side boundary wall of the rear garden of No 33 Rathdown Park, the adjoining property occupied by the appellant party. It is at 19250 mm or 19500 mm from the rear wall of the original house and 15500 mm from the rear of the single storey extension at No 33 Rathdown Road. The remaining space is allocated to on-site parking and private open space the stated area of which is 78 square metres. Notwithstanding the discrepancies between the drawings here is no conflict with development plan standards regarding site configuration and size, the relationship with the adjoining property at No 33 Rathdown Park or with regard the retained private open space area for the existing property at No 35 Rathdown Park.

7.2.2. Impact on residential amenities of adjoining properties.

The proposed single storey dwelling in conjunction with the existing property would not result in substandard private open space provision, subject to good boundary treatment as proposed being in place or undue overlooking or overshadowing between the properties. Similarly, minimum standards are exceeded regarding the existing property and the proposed single storey dwelling. The occupants at No 33 would experience a changed context in the environs at the rear of their property in that the rear side boundary would adjoining the private open space of two properties instead of solely the rear garden of No 35 Rathdown Park. For an established suburban residential area, it is not accepted that there is potential for undue diminution in the privacy or residential amenities of the rear garden or rear habitable rooms within the dwelling.

7.2.3. Furthermore, there is no potential for overshadowing, given the position, height and distance of the proposed single storey dwelling from the appellant's dwelling. With regard to the adjoining development at No 33 Rathdown Park, owing to the single storey nature of the proposed development and relative footprints of each dwelling and separation distances between them it. It is not accepted that the utility and amenities of the rear private open space at the appellant's property would be adversely affected and substandard with the proposed development in place and it is

considered that both properties would benefit from and be facilitated by good quality private open space in quantity, quality, and amenity potential. The applicant's willingness to provide for obscure glazing and or alter ope sizes for the proposed fenestration to ameliorate the appellant's concerns would be unwarranted given that potential for undue overlooking would not occur unless the boundary treatment was removed. The two east facing windows are somewhat ancillary in nature in that they are for a shower room and kitchen space in of the open plan living room.

7.2.4. Finally, it is not accepted that the use of the gravelled surface front curtilage parking could contribute to undue diminution in the attainable standards of residential amenity of the house and rear garden of No 33 Rathdown Park adjoining private open space separating the parking area from the boundary.

7.2.5. With regard to the residential amenities of the adjoining property at No 40 Templeogue Road, the dwelling is adjacent to the side boundary of the deep front garden serving the cottage the footprint of which is behind the site boundary and at the rear of No 33 Rathdown Park, the appellant's property. No undue adverse impact on residential amenity or property value at this property is envisaged given the low height and profile of the proposed dwelling.

7.2.6. Inclusion of a condition for removal of exempt development entitlements is recommended in the event of favourable consideration of the proposed development, given the configuration of the site and the proposed development it is considered desirable, in the event of consideration of further development within the site such as outhouses or extensions

7.2.7. Impact on established pattern and character of development in the area.

The site is formed from the rear garden of one of the Stringer built semi-detached houses of Rathdown Park and is within the edge of lands zoned "Z2: Residential Conservation Area". The site location is somewhat peripheral or transitional in abutting lands zoned Z1 for protection and improvement of residential amenities. By the subdivision there is an alteration to the plot size and deep rear garden of the existing Stringer house. This original garden and some adjoining gardens are deeper than the rear gardens of many of the Rathdown Park rear gardens and it appears that there is little or no potential for rear or side garden subdivision within the Rathdown Park residential conservation area. Thus, there are no implications for

precedent for significantly increased density and alteration to the pattern and layout of Rathdown Park. T

7.2.8. The combined side boundaries of the sites existing and proposed dwelling adjacent to Templeogue Road are extensive, the proposed dwelling is low profile and would be relatively unnoticeable behind the road side boundary behind front side boundary of the property at No 44 Templeogue Road on approach or from any vantage points within the public realm and on approach from Terenure. It can be concluded that no adverse impact on the established character and pattern of development in the area would occur should the proposed development be permitted and implemented.

7.2.9. Traffic and Pedestrian Safety.

The proposed vehicular entrance and an adjoining pedestrian entrance are relocated at the north-eastern end of the site frontage from the north-western end shown for the previously unsuccessful proposal. The separate pedestrian entrance appears to be somewhat superfluous to requirements and inessential. Templeogue Road (R115) is an important route for all road users and has a cycle and bus lane in both directions along the carriageway. Generally, it is considered that the creation of additional vehicular entrances onto these routes should be discouraged so as to prevent any exacerbation of obstruction of the free flow of traffic and in the interests of the protection of the convenience and safety of the route for all road users, namely, public and private transport vehicles, cyclists and pedestrians. The concerns of the observer party as to the undesirability of additional entrances for private dwellings in this regard are supported. Nevertheless, sufficient standards with regard to sightlines and turning within the site curtilage are achieved, the Roads and Transportation Department has no objection and there has been no objection on similar grounds to the prior unsuccessful proposal.

7.2.10. Appropriate Assessment.

Having regard to the location of the proposed development which entails construction of a modest sized dwelling within an established residential area, it is considered that no appropriate assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Conclusion and Recommendation.

- 8.1. In view of the foregoing, it is considered that the applicant has successfully addressed the issues raised within the reasons for refusal of permission for the prior proposal and that permission should be granted. Draft reasons and considerations and conditions follow.

9.0 Reasons and Considerations

Having regard to the site size and configuration and to the site layout, footprint, scale and height of the proposed dwelling it is considered that subject to compliance with the conditions set out hereunder, the proposed development would be satisfactorily integrated into the established pattern and character of development in the area, would not be seriously injurious to the residential amenities of adjoining and surrounding residential properties by reason of adverse visual impact, overdevelopment, overlooking and overshadowing, would provide for a satisfactory standard of residential development and amenity for the future occupants and would be acceptable in terms of traffic safety and conveniences. 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 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 proposed boundary treatment including materials and finishes and for hard and soft landscaping within the perimeter of the site shall be submitted to and agreed with the planning authority prior to the commencement of the development.

Reason: In the interest of the visual and residential amenities of the area.

3. Details of colours and textures of all the external finishes, inclusive of samples shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual and residential amenities of the area.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations without a prior grant of planning permission.

Reason: In the interest of the residential amenities of the area.

5. 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.

6. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the residential amenities of the area.

7. A drop kerb shall be provided along the entirety of the site frontage in accordance with the requirements of the planning authority at the applicant's own expense.

Reason: In the interest of public safety and amenity.

8. The developer shall pay to the planning authority a financial contribution of 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 in respect of the retail unit only and 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. The application of any indexation required by this condition 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.

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.

Jane Dennehy
Senior Planning Inspector.
21st June, 2017,