



An
Bord
Pleanála

Inspector's Report PL.06F.248317.

Development	Construction of house to the rear of existing house, alterations to boundary wall and all associated site works.
Location	7 The Mall, Malahide, County Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F16A/0461.
Applicant(s)	Lisa McMahon and Ronan Colleran.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant(s)	Lisa McMahon and Ronan Colleran.
Observer(s)	1. Dermot J. Hogan. 2. Margaret Gilbride, Ann Charleton, Barry Murphy, Patricia McClancy, Sarah Flinter and PJ Gunn.
Date of Site Inspection	23/05/2017.
Inspector	Karen Kenny.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	10
6.3. Observations.....	10
6.4. Further Responses.....	11
7.0 Assessment.....	11
8.0 Appropriate Assessment.....	15
9.0 Recommendation.....	15
10.0 Reasons and Considerations	15

1.0 Site Location and Description

- 1.1.1. The appeal site is located within the historic core of Malahide at the corner of The Mall and The Rise. The site fronts The Mall and sides onto The Rise.
- 1.1.2. In its current form the site contains a large detached two storey dwelling (c. mid-20th century) on a large site of c. 0.13 hectares. The dwelling is set back within its site and is heavily screened along the western and southern boundaries with mature evergreen planting. The site has direct vehicular access onto The Mall.
- 1.1.3. The area is characterised by residential development to the east and south, a tennis ground and other recreational uses to the north and a mix of residential and commercial uses to the west. The large detached dwellings fronting onto The Mall have a similar architectural style and sit in a prominent position between the historic commercial core of Malahide to the west and the Grand Hotel to the east. The Rise to the south has a more traditional suburban form and is characterised by two-storey detached and semi-detached dwellings. The ground level rises from north to south at this location and properties along The Rise are set above the level of dwellings along The Mall.

2.0 Proposed Development

- 2.1.1. Permission is sought to sub-divide the existing residential property and to construct a detached single storey dwelling in the rear garden, with a new vehicular access from The Rise to the west. The site of the new dwelling has a stated area of 0.046 hectares. The dwelling is a square flat roofed structure with a stated floor area of 144 square metres.
- 2.1.2. The application is accompanied by an Architectural Appraisal and Architectural Impact Statement and a Tree Survey Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Decision to Refuse Permission. The Planning Officers initial assessment noted that the development would not have an adverse impact on the visual amenity of the

area, subject to the retention of existing planting and that the applicant had not submitted sufficient information to demonstrate that the planting can be retained. A tree survey submitted as further information indicates that the existing planting is in poor condition and has a limited life span. The refusal reason states that the applicant failed to adequately demonstrate that the proposed dwelling could be inconspicuously integrated onto the subject site.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planning Officers initial report notes that existing planting would sufficiently screen the development. Following consideration of the further information which indicated that the existing planting is in poor condition and has a limited life span, the Planning Officer recommended that permission be refused.

3.2.2. Other Technical Reports

Transport Section: No objection (following response to F.I.).

Water Services Section: No objection.

Conservation Officer: The dwelling sits forward of properties on The Rise and The Mall and as such is unacceptable.

3.3. **Prescribed Bodies**

Irish Water: No objection.

3.4. **Third Party Observations**

3.4.1. 6 no. submissions were received. The issues raised in submissions are similar to the issues raised in the observations detailed below.

4.0 **Planning History**

FS97/16/056

Part V certificate of exemption granted for the current development.

PL06F.245533 / F15A/0321 (Silverdale)

Permission refused for two storey dwelling to the rear of the existing dwelling at 'Silverdale' The Mall, on the opposing site to the west of the appeal site.

F94A/0220

Permission refused for alterations and change of use from residential to medical consultancy, at 'Silverdale' The Mall, on the opposing site to the west of the appeal site.

92A/1704 (Silverdale)

Permission refused for bungalow to the rear of the existing dwelling at 'Silverdale' The Mall, on the opposing site to the west of the appeal site.

PL06F.204936 / F03A/1096 (Somerton)

Permission granted for construction of a two storey dwelling to rear of 'Somerton' The Mall, on a site to the west of the appeal site. Decision upheld on appeal to An Bord Pleanála.

PL06F.201997 / F02A/1623 (Somerton)

Permission granted for construction of two storey dwelling to the rear of 'Somerton' The Mall, on a site to the west of the appeal site. Decision overturned on appeal to An Bord Pleanála.

PL06F/123721 / F00A/1189 (Somerton)

Permission granted for construction of two storey dwelling to rear of 'Somerton' The Mall, on a site west of the appeal site. Decision overturned on appeal to An Bord Pleanála.

F16A/0345 (Silks Restaurant)

Permission refused for two storey dwelling to rear of Silks Restaurant on a site to the west of the appeal site.

F16A/0168 (Silks Restaurant)

Outline permission refused for two storey dwelling to rear of Silks Restaurant on a site to the west of the appeal site.

F11A/0241 (Silks Restaurant)

Permission granted for refurbishment works to existing restaurant on a site to west of the appeal site.

F08A/0366 (Silks Restaurant)

Permission granted for three storey mixed use development on site of Silks Restaurant to the west of the appeal site.

PL06F.221995 / F06A/1385 (Silks Restaurant)

Permission granted for demolition of existing structures and construction of a four storey over basement mixed use development on site of Silks Restaurant to the west of the appeal site. Decision overturned on appeal to An Bord Pleanála.

F05A/0456 (Silks Restaurant)

Permission refused for demolition of existing structure and construction of a four storey over basement mixed use development on site of Silks Restaurant to west of the appeal site.

PL06F.243493 / F14A/0131 (7 The Rise)

Permission refused for dwelling to rear of no. 7 The Rise on a site to the south of the appeal site. Decision upheld on appeal to An Bord Pleanála.

5.0 Policy Context

5.1. Development Plan

The Fingal County Development Plan 2017-2023 is the relevant statutory plan. The decision dated 15th March 2017 was made under the previous Fingal County Development Plan 2011-2017.

The development strategy for Malahide contained in Chapter 4 of the Plan seeks to promote the planned and sustainable consolidation of the existing urban form and the sensitive promotion of amenities. A number of Development Plan objectives and standards are relevant:

- The appeal site is zoned RS “provide for residential development and protect and improve residential amenity”.

- Objective PM44 encourages the development of underutilised sites in existing residential areas subject to the protection of amenities, privacy and character, while objective PM45 promotes contemporary and innovative design in such areas.
- The appeal site is located in the Malahide Historic Core ACA and adjoins The Rise ACA. Objective DMS157 seeks to ensure that any new development within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design including: scale, mass, height, proportions, density, layout, materials, plot ratio and building lines. Objective DMS158 requires all planning applications in ACA's to have regard to the information contained in Table 12.11.

5.2. National Policy Context

Architectural Heritage Projection – Guidelines for Planning Authorities 2004: These guidelines outline the responsibility of the Planning Authority to preserve the character of conservation areas within their functional area. The Guidelines state that in relation to conservation areas that “the protection of architectural heritage is best achieved by controlling and guiding change on a wider scale than the individual structure, in order to retain the overall architectural or historic character of the area”.

5.3. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

There is one first party appeal. The principal grounds of appeal are summarised as follows:

- Refusal relates to the screening effect of the existing boundary planting and certainty in relation to the maintenance of the boundary planting (to ensure no adverse visual impact on the character of the ACA).

- View that the existing planting must be in situ is not rational or reasonable.
- If the dwelling is otherwise acceptable, provided that an effective and appropriate planted screen can be provided, fail to see why permission cannot be granted.
- Screening requirements can be realised through replanting, subject to a planning condition and compliance agreement to ensure that the agreed planting scheme is carried out.
- Do not agree that replacing the tree line would constitute an incongruous and discordant feature. This is the correct course of action to ensure that the character of the area and level and quality of planting is maintained into the future.
- Any adverse impacts from replacement planting will be short-term. The medium to long-term impacts will be positive.
- Landscape Architects have been retained to assess the site and provide a detailed methodology and specification for replanting. New drawings submitted with the appeal submission. It is proposed to remove the existing planting on the southern and western boundaries during construction, to erect hoarding along the boundary during construction and to insert new mature pleached planting of 3.8 metres in height (as shown on submitted drawings) when works are substantially completed.
- The concerns expressed in third party submissions are noted and understood.
- The applicants are of the view that the proposed dwelling has been carefully designed and sighted such that it can be accommodated on the site without detracting from the character of the ACA.
- While planning history in the area is noted each application must be considered on its own merit, as no two sites or developments are the same.
- The response to the request for additional information reduced the building footprint and the western façade was moved away from the boundary, increasing separation.

6.2. Planning Authority Response

- Development was assessed in terms of its potential integration within the ACA of which it forms part (Malahide Historic Core) and the adjacent ACA (The Rise).
- Having regard to the limited size and scale of the dwelling it was considered that an infill at this location may not have an adverse impact on the visual amenities of the area, subject to retention of the dense planting along the site boundaries.
- Following assessment of the tree survey it was considered that the existing tree line could not be maintained due to its poor quality and would have to be replaced. Notwithstanding the applicant's proposals to incrementally reinstate the boundary, it was noted that full replacement would be required at the outset due to structural weakening of the boundary wall.
- The assessment of the proposed dwellings overall integration within the ACA was based on the retention of the existing dense tree line and as such a decision was made to refuse planning permission.

6.3. Observations

2 no. observations have been received. The issues raised can be summarised as follows:

- The planning authority's refusal fails to capture the importance of the ACAs.
- Impact on the integrity of the designated ACA. The objectives for The Rise need to be respected and observed.
- The development would be harmful to the existing form and character of The Rise and injure the amenities of neighbouring properties.
- The restricted plot would not provide a proper level of residential amenity for the proposed development and would be detrimental to the amenities of the existing house.
- The vehicular access would necessitate the removal of mature trees which form part of the character of The Rise.

- The commitment to maintain trees is unenforceable.
- Vehicular access would exacerbate congestion and constitute a traffic hazard.
- The development will be visible from The Rise, would be discordant and intrusive and set an undesirable precedent.
- The development does not positively contribute to the character of the area. It has no architectural form or merit that would enhance the existing houses on The Rise, instead it would represent a negative visual and practical impact on the character of The Rise.
- There is a planning history of previous refusals for similar development in the area.
- Reference to ‘mews’ is incorrect – development is a new dwelling.

6.4. Further Responses

None

7.0 Assessment

I consider that the main issues in this case are as follows:

- Principle of Development and Planning History
- Visual Impact and Impact on Architectural Conservation Areas
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

7.1. Principle of Development and Planning History

- 7.1.1. The application site is zoned RS “To provide for residential development and protect and improve residential amenity”. I am satisfied that the proposed residential development is acceptable in principle within the zoning category.
- 7.1.2. Planning history in the area is detailed in Section 4.0 above. Permission was refused under PA Reg. Ref. F15A/0321 for a two storey dwelling on the directly

opposing corner site to the west of the appeal site 'Silverdale'. The refusal was upheld on appeal (PL06F.245533). While the site context is similar and many of the issues are relevant to the current appeal, the dwelling was substantially larger and higher than the dwelling proposed under the current appeal. While aspects of the decision are relevant it is considered that the decision in this instance does not establish a precedent for the subject appeal. The permission granted for a detached two storey dwelling on a site to west 'Somerton' under PL06F.204936, while proximate has a different site context as the site is set back from the entrance to The Rise. The decision in this instance does however establish a precedent for the sub-division of the original large properties along The Mall.

7.2. Visual Impact and Impact on Architectural Conservation Area's (ACA's)

- 7.2.1. It is proposed to sub-divide an existing residential property and to construct a new single storey dwelling to the rear.
- 7.2.2. The site is located within an ACA (Malahide Historic Core) and adjoins a second ACA (The Rise), which are afforded a high degree of protection under the Development Plan and under national policy. I would consider the urban grain as defined by plot size and building line, to contribute to the special character of this part of the Historic Core ACA. The Mall is characterised by large detached two-storey dwellings set within large plots with substantial front and rear gardens. The site is located at the entrance road to The Rise, where these plot sizes are particularly evident, in the large garden areas that side onto the eastern and western sides of the roadway. It is also considered that the building lines along The Mall and The Rise are a defining feature of these areas.
- 7.2.3. The appeal site is a prominent site at the western edge of the entrance to The Rise. The road slopes upward from north to south and properties in The Rise sit above the level of the appeal site.
- 7.2.4. The proposed dwelling has a stated floor area of 144 square meters and is contemporary in its design, comprising a square flat roofed structure with a parapet height of 3.745 metres. It is proposed to sit the structure into the natural slope of the site, resulting in a reduced height over ground level of c.2.6 meters at the rear. The dwelling footprint extends from west to east across the site maintaining a setback of c. 1.8 to 1.9 metres from the western (front) boundary and of c. 0.7 metres off the

eastern (rear) boundary, with greater setbacks off the northern and southern boundaries.

- 7.2.5. A key issue for consideration in this instance is the visual impact of the development and its impact on the character of the area.
- 7.2.6. The proposed dwelling is considered to be of modest scale and height, and it is considered to have a simple architectural language that would sit well within an established setting. However, the development sits forward of the established building line to north along The Mall and is entirely forward of the established building line to south along The Rise and in this regard would be at variance with the established pattern of development in the area. The development also proposes to subdivide the plot into two separate plots of c. 0.0894 hectares and 0.046 hectares in area, which would be at variance with the plot sizes of 0.1 hectares plus along The Mall.
- 7.2.7. The appeal site is fully screened at present by mature planting. A tree survey submitted as further information indicates that the existing planting is in poor condition and has a limited life span. The appeal submission includes a proposal to replace the existing planting with mature trees along the western and southern boundaries, broken only by the proposed vehicular access. The appeal submission also proposes to lower the finished floor level of the dwelling to achieve a parapet level of 12.15 metres, relative to a proposed planting height of 12.85 to 13.56 metres. While I note that the proposed planting scheme would provide extensive screening along the western and northern boundaries and soften the visual impact of a development it is considered inappropriate to rely solely on planting to block views of a structure that would be otherwise incongruous or at variance with the character of an area. It is considered that this is particularly relevant in the case of a prominent and / or sensitive site.
- 7.2.8. While the modest scale of the dwelling and the planting scheme would assist in integrating the development within the wider area, I have concerns in relation to the extent to which the dwelling breaches the established building lines and in particular its proximity to the western site boundary. It is also considered that views of the proposed dwelling cannot be screened in full and that it would be visible on approach from The Mall through the vehicular entrance.

7.2.9. Having regard to the extent to which the dwelling sits forward of the established building line and its proximity to the western site boundary, it is considered that the development would represent a visually discordant feature and that it would impact negatively on the character of the ACA of which it forms part (Malahide Historic Core) and of the adjoining ACA (The Rise).

7.3. Impact on Residential Amenity

7.3.1. The proposed development is single storey in nature and given its height and the separation distances from adjoining properties I am satisfied that the dwelling would not give rise to any adverse impacts on the amenities of properties in the vicinity by way of overlooking or overshadowing. The proposed dwelling is in compliance with the open space and room size standards of the Development Plan and is not considered to be overlooked by first floor windows to the north or south.

7.4. Traffic

7.4.1. It is proposed to create a new vehicular access of 3.6 meters in width from the western site boundary over the existing footpath onto The Rise. The proposed access is located c. 45 meters north of an existing 'T' junction with The Mall. A number of observers raise concerns in relation to traffic and pedestrian safety and of the impact of additional traffic on congestion.

7.4.2. Having regard to the nature and scale of the development and the sites location within an urban area I consider that the additional traffic movements that are likely to be generated by the development would not be significant, that sight lines are adequate and that the development would not create an unacceptable traffic hazard or unacceptable inconvenience to other road users. I consider that should the Board be minded to grant permission it should include the conditions recommended by the Councils Transportation Section.

7.5. Other Issues

I am satisfied that the development standards of the Fingal County Development Plan 2017-2023 with regard to separation between dwellings and open space standards are met and exceeded in respect of the proposed dwelling and the existing dwelling on site. Notwithstanding this, it is considered that the site justifies a greater separation from properties in the vicinity having regard to its location within an Architectural Conservation Area, at a location that is defined by large plot sizes,

and the policies of the Development Plan to protect the special character of such areas.

- 7.5.1. I raise no issues in relation to services, however, should the Board be minded to grant permission I recommend that the conditions recommended by the Planning Authority and Irish Water in relation to water supply and drainage are included.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the minor nature of the development and its location in a serviced urban area, 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.

9.0 Recommendation

- 9.1. I recommend that permission be refused.

10.0 Reasons and Considerations

The proposed development, by reason of its building line relative to surrounding buildings and the limited setback off the western site boundary, would be at odds with the pattern of development in the area and materially affect the character of the 'Malahide Historic Core' Architectural Conservation Area and the adjoining 'Malahide The Rise' Architectural Conservation Area, and would thereby seriously injure the visual amenities of the area. The proposed development would also contravene Development Plan objective DMS 157 which seeks to ensure that any new development within or adjoining an ACA positively enhances the character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Kenny
Inspectorate

07 July 2017