



An
Bord
Pleanála

Inspector's Report PL06D.248572

Development	Construction of a dwelling house with associated parking, drainage, water connection and landscaping.
Location	Site no. 4, Saval Park, Saval Park Road, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0183
Applicant(s)	Peter and Fiona O' Leary
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	Peter and Fiona O' Leary
Observer(s)	Simona Doyle Ronald J. Lynam and Sharon Lynam John T. Caffrey Dr. Jim and Paola Bowman

Date of Site Inspection

9th August 2017

Inspector

Erika Casey

1.0 Site Location and Description

- 1.1. The subject site has an area of 0.558 hectares. It is located within an existing private gated residential development known as Saval Park which is located to the south of Saval Park Road. The site forms part of a larger landholding which formerly accommodated a dwelling referred to as "Loughmoe". Permission was previously granted for the demolition of this dwelling and for the construction of a number of large detached dwellings within the grounds.
- 1.2. The subject lands represent one of two undeveloped parcels of land within the development. There is a separate concurrent application (PA. Ref. D17A/0394) for a further detached dwelling house located to the immediate south.
- 1.3. Development in the immediate vicinity of the site comprises large detached low density suburban housing. To the north of the site are a number of large detached dwellings accessed from Saval Park Road. To the east, are the two existing dwellings constructed under the parent permission for the subject site. To the west, there are further large detached dwellings accessed from Saval Park Crescent including no. 8 which immediately abuts the boundary of the site.
- 1.4. The site itself is grassed and has mature trees and a high stone boundary wall located along the northern and western boundaries. There is a level difference between the site and the lands to the north and west.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a large 4 bedroom plus nursery detached dwelling with a floor area of 282 sq. metres. Access to the dwelling is provided via the existing vehicular access from Saval Park. 3 car parking spaces are proposed.
- 2.2. The dwelling is two storeys in height with the upper floor accommodation set within a mansard roof. The height of the dwelling is 6.68 metres. The dwelling is set back 11 metres from the western boundary and 1.68 metres from the southern boundary. To the north, it is set back approximately between 1.2 metres to 2.2 metres from the northern site boundary and between 17.7 and 20.95 metres from the properties located to the north of the site. Materials proposed for the dwelling comprise sand

and cement render finish to the walls and blue black natural slates to the mansard roof. A decorative balcony is provided on the eastern elevation. No fenestration has been provided on the upper floor level of the northern elevation.

3.0 Planning Authority Decision

3.1. Decision

Refuse Permission for 1 reason:

“It is considered that the proposed dwelling, by reason of its height, length, size, scale and close proximity to the northern boundary, would be visually overbearing and obtrusive when viewed from adjoining properties to the north and would seriously injure the visual and residential amenities of the area and or property in the vicinity and depreciate the value of property in the vicinity. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Report (26/04/2017)

The planner’s report notes the following key points:

- The footprint and positioning of the new dwelling within the site is similar to that previously refused under Reg. Ref. D10A/0406 with only minor amendments proposed.
- The subject site has an elevated position relative to the adjoining properties to the north and west.
- It is considered that there would be no overshadowing to adjoining properties from the proposed development.

3.2.2. Other Technical Reports

Transportation Planning (12/04/2017): No objection subject to conditions.

Drainage Planning (05/04/2017): Further Information required with respect to the conduct of an infiltration test to confirm that the land has the capacity to infiltrate all surface water to the proposed soakpit.

3.3. Prescribed Bodies

Irish Water (06/04/52017): Further information required with respect to infiltration test and drawing indicating proposed water connection.

3.4. Third Party Observations

3.4.1 5 no. observations were received from Dr. John Mc Hugh and Mr. James Geraghty; Simona Doyle; John Caffrey; Ronald and Sharon Lynam and Dr. Jim and Paola Bowman. Issues raised include:

- Height, scale and mass of dwelling and potential impact on residential amenities of adjacent properties in terms of visual impact and potential overlooking and overshadowing.
- Accuracy of architectural plans submitted with the application particularly in terms of site levels.
- Development contravenes condition 3 of An Bord Pleanála decision PL06D.119917 which required a future separate application for a dormer bungalow on the subject site.
- Impact on existing trees.
- Surface water flooding.

4.0 Planning History

4.1 There have been a number of applications pertaining to the site and its immediate environs. Key relevant decisions are set out below:

Subject Site:

P.A. Ref. D99A/1098/ABP Ref: PL06D.119917

This is the parent permission pertaining to the site. Permission was granted in January 2001 by An Bord Pleanála for a development comprising the construction of two detached two-storey dwellings and for associated site works and also to include demolition of existing house at Loughmoe, Saval Park Road, Dalkey.

Condition 3 stated:

“The proposed two storey house and tennis court on site F shall be omitted from the development. The house may be replaced by a dormer bungalow which shall be the subject of a separate application for approval.

Reason: In the interest of residential amenity.”

Site F relates to the subject site and the adjacent site to the south of the subject application – P.A. Ref. 17A/0394.

P.A. Ref. D10A/0406

Permission sought in July 2010 for a dormer dwelling on the subject site and was refused permission by Dun Laoghaire Rathdown County Council for the following reason:

“It is considered that the dwelling as proposed, by virtue of its height, scale and proximity to the northern site boundary, would be visually overbearing and obtrusive to the northern site boundary, would be overbearing and obtrusive on the rear garden amenities of adjacent properties and would have a seriously adverse impact on the visual amenities of the area. In addition, having regard to the deficiencies noted with the submitted drawings, the Planning Authority is not satisfied that the development would afford an acceptable level of internal amenity, particularly at first floor level with regard to headroom and accessibility, for any future occupants. The proposed development would therefore contravene the zoning objective for this location of protecting and improving residential amenity and would be contrary to the proper planning and sustainable development of this area.”

Environs of Site:

P.A. Ref. D17A/0394

This is the current application for permission (lodged in April 2017) on the site directly to the south of the appeal site for a dwelling house with associated parking. The proposed dwelling is 295 sq. metres in area and has a height of 6.83 metres. It has a similar mansard roof profile. The planner's report notes that the design of the dwelling is appropriate and massing is broken up along western elevation. It also notes that the development would have no significant overshadowing or overlooking impacts to adjacent properties. Further information requested regarding revised contiguous elevations.

P.A. D08A/0376/ABP Ref: PL06D.230859

Permission was sought in April 2008 for a two storey dwelling house at 3 Saval Park. This site is located to the immediate south of the subject site. Permission was refused by An Bord Pleanála in March 2009 for the following reason:

"The proposed house, by reason of its size, scale and siting, would be visually dominant when viewed from the rear gardens of the dwellings to the west and to the south of the site and would overshadow the garden of the house to the west. The proposed location of the house set behind the existing large garage serving the adjoining property and at right angles to the cul-de-sac head would appear cramped and out of character with the proportions of the surrounding development. The proposed development would, therefore, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area."

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative development plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The subject site is zoned Objective A: 'To Protect and/or improve residential amenity'.

Section 8.2.3.4 (vii) Infill: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”*

Section 2.1.3.4 Existing Housing Stock Densification: *“Encourage densification of the existing suburbs in order to help retain population levels - by ‘infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.*

In older residential suburbs, infill will be encouraged while still protecting the character of these areas.”

5.2. Natural Heritage Designations

5.2.1 None applicable.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows.

- Proposed development has been modified on foot of a previous refusal in relation to D10A/0406 with a reduced building height and area. Height has been reduced by 1.01 metres. Roof profile is now mansard as opposed to pitched. It thus will have significantly less impact.
- Existing House no. 1 which was permitted by both the Local Authority and An Bord Pleanála is much closer to the existing dwellings on Saval Park Road to the north than the current proposal.
- Substantial tree screening along the northern boundary will reduce visual impact.
- Dwellings to the north are between 17.7 and 20.95 metres from the shared boundary which is significant in an urban context.

- Refers to a number of precedents where similar developments have been granted by Dun Laoghaire Rathdown Co. Co.
- Notes that Planning Authority have concluded that the development would have no significant or undue overlooking on adjacent properties.

6.2. Planning Authority Response

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. Observations

6.3.1 4 no. observations have been received from Simona Doyle, 9 Saval Park Crescent, Dalkey; Ronald J. Lynam and Sharon Lynam, Woodbine, Saval Park Road, Dalkey, Co. Dublin; John T. Caffrey, Loughmoe, Saval Park Road, Dalkey and Jim and Paola Bowman, 8 Saval Park Crescent, Dalkey. The key issues may be summarised:

- The development by virtue of its mass, scale and height and proximity to existing boundaries would have an adverse impact on the residential amenities of adjacent properties due to overshadowing, overlooking and visual impact.
- The house type originally considered by the Board and conditioned to be a dormer dwelling under appeal reference PL06D.119917 had a narrower footprint than the current proposal, thus minimising potential visual impact.
- Accuracy of architectural plans submitted with the application queried, particularly in terms of site levels. Having regard to differences in finished floor levels the development would effectively be a 3 storey dwelling thus exacerbating its visual impact.
- The current development is closer to the northern boundary than the dwelling previously refused. The minor reduction in height and mansard roof will have no impact on the overbearing nature of the development.
- Given the proximity of the development to the northern boundary it is unlikely that the existing trees will be retained during the construction phase.

6.4 Further Responses

6.4.1 Further response to the observations submitted by the applicant on the 8th of August 2017.

- The planning authority have concluded that there would be no significant or undue overlooking to adjacent properties.
- Survey and drawings accurately show the relative finished floor levels and maximum ridge levels of the existing bungalows and the proposed houses on the subject site and that to the south under P.A. Ref. D17A/0394. The difference in finished floor levels between the site and no. 9 Saval Park Crescent is 1.65m and with no. 8, it is 200m.
- Due to the separation distances between no. 9 Saval Park Crescent and the subject site, there will no overlooking.
- No evidence to suggest that the development will result in a diminution of property values. Site is zoned for residential development and appropriate for infill housing. The development is entirely in accordance with the County Development Plan.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and in the observations submitted. The issue of surface water disposal also needs to be considered. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Visual impact.
- Impact on residential amenity.
- Surface water disposal.
- Appropriate assessment.

7.2. Visual Impact

- 7.2.1 The subject development comprises a two storey dwelling with the upper floor accommodation set within a mansard roof. The height of the dwelling is 6.68 metres. The proposal in conjunction with the concurrent application to the south proposed under P.A. Ref. D17A/0394 is the last remaining development plot (referred to as plot F) within the development.
- 7.2.2 Under the parent permission for the site P.A. Ref. D99A/1098/ABP Ref: PL06D.119917 it was proposed to construct 3 no. dwellings. Permission was granted for 2 no. dwellings with a specific condition stating that the two storey house on site F should be omitted and may be replaced by a dormer bungalow subject to a future separate application.
- 7.2.3 The applicant now proposes to provide a more intensive form of development by constructing 2 no. dwellings on the former plot F site as delineated under this permission. It is considered that the proposed intensification is appropriate and would make a more effective and sustainable use of this greenfield site. Such intensification is in accordance with the development plan policy set out under Section 2.1.3.4 of the current Dun Laoghaire Rathdown County Development Plan 2016-2022.
- 7.2.4 The condition attached to the parent permission is noted. The Board clearly accepted the principle of a dwelling at this location. However, the age of the permission and changes to the policy context that have occurred in the intervening period must be considered. Guidance such as “Sustainable Residential Development in Urban Areas” generally encourages greater intensification on such sites subject to the residential amenities of existing properties being safeguarded. The wording of the condition is also noted and it is stated that “*The house may be replaced by a dormer bungalow*” (my emphasis).
- 7.2.5 In this regard, it is not considered that the condition was prescriptive that site F must only accommodate a dormer bungalow dwelling. The intent of the condition however, is clear in that it was intended that a dwelling of reduced height was appropriate on this site having regard to the proximity of other adjacent properties and the need to protect the amenities of these dwellings. It is in this context that the

appropriateness of the height and scale of the proposed dwelling must be considered.

- 7.2.6 It is also noted that permission was previously refused on the subject site under P.A. Ref. D10A/0406 for a dormer dwelling due to concerns regarding its height, scale and mass and potential negative visual impact to properties to the north of the site.
- 7.2.7 The current design proposal has evidently been modified in order to overcome this reason for refusal in that the overall height of the dwelling has been reduced (from 7.6 metres to 6.68 metres), the roof profile and design has been altered (from pitch to mansard) and no fenestration has been provided in the upper floor of the northern elevation.
- 7.2.8 The primary reason for refusal relates to the potential impact of the development on properties to the north and, in particular, concerns that the dwelling would have an overbearing and obtrusive impact when viewed from the adjoining dwellings.
- 7.2.9 The subject dwelling is set back a distance of between 17.7 and 20.98 metres from the nearest properties to the north. Having regard to the proposed design of the dwelling, (including the roof profile and height of 6.68 metres), and its set back from these properties, it is not considered that it would have an adverse visual, overbearing or obtrusive impact.
- 7.2.10 It is also noted that the separation distance between the proposed dwelling and the existing houses to the north is greater than that which currently exists between House 1 and the dwelling to the north of between 7.8 and 11.93 metres.
- 7.2.11 There is also an existing high stone boundary wall of c. 1.8 metres in height located between the proposed dwelling and the properties to the north. This will be retained, further mitigating potential impact. Mature planting also exists. Whilst some of this planting may be impacted upon during the construction phase, it is considered that additional landscaping would further mitigate any potential visual impacts. This can be addressed by way of condition.
- 7.2.12 With reference to the dwellings to the west, it is again noted that these are located a significant distance away from the proposed dwelling. The nearest dwelling is c. 22 metres from the proposed dwelling and, in this regard, it is not considered the proposal would have any significant adverse visual impact.

7.2.13 It is noted that concerns have been raised by the observers regarding the accuracy of the drawings. It is noted that there is a level difference between the subject site and those to the north and west. However, given the design of the dwelling and the existing ridge heights of adjacent properties, it is not considered this would exacerbate the potential visual impact of the development to any significant degree.

7.3 Impact on residential amenities

7.3.1 Concerns have also been raised by observers regarding potential overlooking and overshadowing and loss of mature trees along common boundaries.

7.3.2 A shadow study has been submitted by the applicant. This demonstrates that the proposed development will have no material adverse impact in terms of overshadowing to adjacent properties. It is also noted that the PA's planner's report raises no concerns regarding potential overshadowing impacts.

7.3.3 In terms of overlooking, having regard to the separation distance between the proposed dwelling and the existing properties to the north and west, it is considered that no significant overlooking will occur. Furthermore, no fenestration is proposed in the first floor mansard roof on the northern elevation.

7.3.4 With regard to loss of mature trees, as noted above, it is considered that existing landscaping along common boundaries can be augmented post construction and that this issue can be addressed by condition.

7.4 Surface Water

7.4.1 The observation by Irish Water requests that the applicant shall conduct an infiltration test to ensure that no surface water shall be discharged to the combined sewer. It is considered that this issue can be satisfactorily addressed by way of condition.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature and scale of the proposed development, a two storey dwelling house within an established urban area, and the distance to the nearest European site, 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

- 8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, to the pattern of development in the area and to the nature, form, scale and design of the proposed development, 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. The proposed development would 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. 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. These include, inter alia, that all surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge to the combined sewer onto the public road or to adjoining properties. Prior to the commencement of development the applicant shall

submit details of proposed surface water disposal arrangements for the written agreement of the Planning Authority.

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

3. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 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 adjoining property in the vicinity.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
 - measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, and
 - off-site disposal of construction/demolition waste.

Reason: In the interests of public health and safety and residential amenity.

5. a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the northern and western boundaries consisting predominantly of trees, shrubs and hedging, capable of growing to the height of 4 metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and in the interest of visual amenity.

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 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. 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.

Erika Casey
Planning Inspector

10th August 2017