



An
Bord
Pleanála

Inspector's Report 29N.248581

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| Development | Demolish boundary wall & construct house attached to existing house. |
| Location | 23 Shanowen Ave, Santry, Dublin 9 |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | WEB1117/17 |
| Applicant | Gavin Kelly |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission with Conditions |
| Type of Appeal | Third Party |
| Appellant | Paul Allen |
| Date of Site Inspection | 8 th August 2017 |
| Inspector | Dolores McCague |

1.0 Site Location and Description

- 1.1. The site is located at 23 Shanowen Ave, Santry, Dublin 9. The site is a residential property occupied by a semi-detached two storey dwelling with a hipped roof. The existing house, which faces Shanowen Ave, has a side boundary along Shanowen Road. The existing dwelling is 6.1m wide, with a side garden of 7.5m width. There is vehicular access from Shanowen Road (side boundary) to a garage at the rear of the site.
- 1.2. The site boundary is angled at the junction of Shanowen Ave. and Shanowen Road and is formed to the front of the house by a fence of iron railings. A masonry wall c2m high runs along the flank of the site adjoining the footpath along Shanowen Road. The wall continues across the site to join the dwelling at the front and thereby divides the side and rear garden, closed from public view, from the front area which is paved and used for parking.
- 1.3. There is a pedestrian entrance via a narrow gateway from the junction, and at the front of the site, a pair of double gates provide vehicular access to the site, across a grass strip and high kerb from Shanowen Road. A narrow pathway crosses the green strip to join the road at the front of the site, but this is not wide enough for vehicular use and it does not align with the gateway.
- 1.4. It appears, from what can be seen on the ground, that the dwelling was designed to have vehicular access from Shanowen Road only, and that the vehicular entrance to the site from Shanowen Ave is of indeterminate age and status.

2.0 Proposed Development

- 2.1. It is proposed to demolish the boundary wall & construct a two storey attached house (attached to No. 23) of 85 sq m with the same design, roof profile and height as No. 23. It is proposed to provide vehicular access by using a combined access within the existing gateway to Shanowen Ave. and also to access, as currently, the garage to the rear, with parking to be provided to front and rear. The existing side windows of No 23 will be closed and a new rear window will be opened at first floor. The plans show three bedrooms of which two are shown as double bedrooms.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission with 12 conditions. The decision was in accordance with the planning recommendation. Conditions include:

condition no. 3

Prior to the commencement of development a full set of revised plans indicating the following shall be submitted to and agreed in writing by the Planning Authority and all details so agreed shall be carried out on site –

- i) The internal layout of the house shall meet the provisions of Section 5.3 of the (then) DEHLG, Guidelines on 'Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). Meeting this requirement may necessitate the provision of at most a three bedroom, 4 person dwelling house on the site.
- ii) Car parking for the proposed new dwelling shall be provided in the existing garage, accessed from Shanowen Road. The existing vehicular access and car parking area adjacent to Shanowen Avenue shall be used only for the existing dwelling, no. 23 Shanowen Avenue.
- iii) Separate and independent front gardens shall be provided to serve the existing house and the proposed house on the site. A 1.2m high wall, in keeping with walling features in the area, shall divide the two properties.

Reason: In the interests of visual amenity.

condition no. 4

The front garden to be used for car parking shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground within the property.

Reason: In the interests of amenity, ecology and sustainable development.

condition no. 7

Details of proposed boundary treatment and hard and soft landscaping proposals for the site shall be submitted to the planning authority for its written agreement prior to the commencement of development. A minimum of 50% of the front garden of the new house shall have soft landscaping.

Reason: To provide for an acceptable standard of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Policies QH1 and QH22

10 sq m of private open space per bed space normally required.

16.10.9

- The proposed development would not intrude on the character of the street.
- The proposed house is 0.5m wider than the existing, otherwise compatible.
- Residential amenities – not unduly impacted.
- Open space standards 56 sqm to serve new, 68 sq m to serve existing; sufficient.
- Parking – acceptable to rear.
- Landscaping – at least 50% of the new front garden to be landscaped, by condition.
- Building line – overall the development complies with CDP standards.
- Minimum habitable areas – DEHLG guidelines requires 3 bed/5 person house to have a minimum floor area of 92 sq m. At most a 3 bed / 4 person house can be accommodated. i.e 1 double and 2 single.
- Objections re. drawings – it is considered that there is sufficient information to understand the impact.
- Modifications to existing dwelling – the proposed first floor window will not result in undue overlooking.
- AA – not likely to have significant effects.

- Grant recommended.

3.2.2. Other Technical Reports

Engineering Department – Drainage Division, 12/4/2017, conditions.

Roads & Traffic Planning Division Report, 20/4/2017, the existing entrance appears to be unauthorised as it is not dished. It is also proposed to use the existing garage which is accessed off Shanowen Road as a secondary access and car parking for the proposed new dwelling. This division recommends that car parking for the new dwelling be provided only in the garage to the rear accessed off Shanowen Road. The proposal for a shared vehicular access for two dwellings at this location is not considered to be satisfactory given the location of the site adjacent to the junction of Shanowen Road and Shanowen Avenue. Conditions.

4.0 Planning History

0378/16 - Pre planning consultation regarding the subject development.

5.0 Policy Context

5.1. Development Plan

5.2. The Dublin City Development Plan 2016-2022 is the operative plan. Relevant provisions include:

Zoned Z1 to protect, provide and improve residential amenity.

The standards for residential accommodation are set out at 16.10 of the City Development Plan. Side garden or corner sites are referred to at 16.10.9 as follows:

The development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a high standard of design, can constitute valuable additions to the residential building stock of an area and will

generally be allowed for by the planning authority on suitable large sites. However, some corner/side gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor quality independent dwelling, which may also compromise the quality of the original house. The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

- The character of the street
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings
- Impact on the residential amenities of adjoining sites
- Open space standards and refuse standards for both existing and proposed dwellings
- The provision of appropriate car parking facilities, and a safe means of access to and egress from the site
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area
- The maintenance of the front and side building lines, where appropriate.
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Floor Areas

Houses shall comply with the principles and standards outlined in Section 5.3: 'Internal Layout and Space provision' contained in the DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

5.3. **Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities**

5.4. Table 5.1 (Space provision and room sizes for typical dwellings) indicates the target gross floor area and the minimum floor areas for living, bedroom and storage areas likely to be required to satisfy requirements of normal living. Dwelling types are

defined in terms of the number of bedrooms, the number of intended occupants and the number of storeys.

5.5. Table 5.1 includes for a 3BED/4P House (2 storey) a target gross floor area of 83 m² and for a 3BED/5P House (2 storey) a target gross floor area of 92 m².

5.6. **Natural Heritage Designations**

5.7. The South Dublin Bay and River Tolka SPA site code 004024 is the nearest Natura Sites, situated several kilometers away.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

An appeal against the decision to grant permission has been made by Mr Paul Allen, 203 Shanowen Road, who is supported by a number of other residents. It includes:

- The assessment failed to afford due weight to the issues regarding Development Plan policy, and lack of clarity re. the future use and internal layout.
- The development will affect the semi-detached nature of the street by creating a terraced effect.
- The development will be shoe-horned into the site.
- The building of the existing side gable of the dwelling at No. 23 respects the building line comprising the Spar shop and the set back student accommodation.
- Having identified potential unauthorised development, the vehicular entrance to the front, further information should have been sought.
- The proposed development fails to adhere to the majority of the criteria for corner/side garden sites; adversely affecting the character of the area, breaching established building line; providing unsatisfactory parking provision

and requiring revisions to the front garden. Further information should have been sought.

- The wording and legality of condition no. 3 are of concern. It does not provide clarity. It is presumably attached in response to concerns regarding multi-occupancy. The condition is unacceptable. Revised plans will not be available for review and comment.
- If the internal layout does not meet the minimum standards permission should be refused or a request for further information should have issued.
- A 85 sqm 3 bedroom/5 person dwelling is proposed, per guideline standards a minimum of 92 sq m is required; refusal or FI.
- Multi-occupancy is a significant concern which has not been satisfactorily addressed. The layout of the existing dwelling is shown as existing 'living room' and in the proposal as 'bedroom'. This is a clear conflict. It is the appellant's view that this is being used as a bedroom and that the house, despite having been built and used as a 3 bedroom dwelling, is operating as a 4 bedroom house. The status of the current use is a valid planning consideration in the assessment of cumulative impact of both dwellings.
- Appellant is cognisant of current DCC planning policy to seek to densify the suburbs of Dublin including Santry, in light of the housing shortage. Such new development is not appropriate on every single corner site.
- It breaches the long established building line along Shanowen Road; presents an unattractive blank gable to the road; is visually obtrusive and out of character with the existing pattern of development in the area; will give rise to potential traffic hazard and on-street parking in an area already badly affected; and is a below standard proposal.

6.2. Applicant Response

- No response received

6.3. **Planning Authority Response**

- No response received

7.0 **Assessment**

7.1. There issues which arise in relation to this appeal are: appropriate assessment, residential standards, traffic and parking, building line and the following assessment is dealt with under those headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. **Residential Standards**

7.4. The third party is concerned at the wording and legality of condition no 3; considering the wording unclear; and that the condition is unacceptable as revised plans will not be available for review and comment. The third party considers that if the internal layout does not meet the minimum standards, permission should have been refused or a request for further information should have issued; and he points out that per guideline standards a minimum of 92 sq m is required for a 3 bedroom/5 person dwelling as proposed.

7.5. The third party has a related concern regarding the existing dwelling and multi-occupancy. He points out that the layout of the existing dwelling is shown as living room in the drawings of the existing situation and in the proposal as bedroom. This he considers a clear conflict. It is his view that this room is being used as a bedroom and that the house is being used as a four-bedroom house. He considers the status of the current use is a valid planning consideration in the assessment of cumulative impact of both dwellings.

7.6. The publication 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' referred to in condition no.

3, is also referenced in the Dublin City Development Plan. The document in question provides a table with target gross floor areas for various sizes of dwelling, storage areas, aggregate bedroom areas, minimum main living room areas and aggregate living areas.

- 7.7. The table has a target gross floor area of 83 m² and for a 3BED/4P House (2 storey) and a target gross floor area of 92 m² for a 3BED/5P House (2 storey).
- 7.8. I note that the floor area of the proposed dwelling is 85 m² which is below the target gross floor area of 92 m² for a 3BED/5P House (2 storey) and above the target gross floor area of 83 m² and for a 3BED/4P House (2 storey). The development applied for per the public notices is a three bedroom house. In this regard the layout plan which shows double beds in two rooms can be regarded as indicative of the dimensions of the rooms rather than their use. I also note that the floor areas given in the guidelines are target floor areas. In my opinion the proposed dwelling is acceptable in terms of residential standards and condition 3 i) is unnecessary and should not be included in a permission should the Board be disposed to grant permission.
- 7.9. The related concern raised in relation to the existing dwelling, its use as a multi-occupancy dwelling, and the existing and proposed layouts submitted which include that dwelling, requires addressing. The existing and proposed dwellings are both within the site boundary and alterations to the existing dwelling: the replacement of one of the existing side windows, to be closed up, with an additional window in the rear elevation, is included among the proposals. In this regard the layout of the existing dwelling in the survey drawings submitted shows, at ground floor, three separate rooms: a living area room at the front, kitchen and dining rooms at the back (Drwg no 0601/02). In the proposed development the ground floor of the existing house is shown with three separate rooms: a bedroom to the front and kitchen and living area rooms at the back (Drwg no 0601/06). This would provide for a 4 bedroom dwelling with aggregate living areas very considerably below the 40m² for such areas recommended in the guidelines. Since this has been shown on the drawings, it should be stated for clarity that this part of the proposal is not included in the permission should the Board be disposed to grant permission.

7.10. Traffic and Parking

- 7.11. The proposed layout includes vehicular entrance to the development from the front, via existing gates to the footpath and crossing a green strip to Shanowen Ave, and from the side at the end of the site, to an existing garage with access from Shanowen Road.
- 7.12. The Roads & Traffic Planning Division Report, noted that the existing entrance appears to be unauthorised as it is not dished, and further noted the proposal to use the existing garage, which is accessed off Shanowen Road, as a secondary access and car parking for the proposed new dwelling. The report recommended that the car parking for the new dwelling be provided only in the garage to the rear, accessed off Shanowen Road. The proposal for a shared vehicular access for two dwellings at this location is not considered to be satisfactory given the location of the site adjacent to the junction of Shanowen Road and Shanowen Avenue.
- 7.13. The third party considers that having identified potential unauthorised development: the vehicular entrance to the front; further information should have been sought.
- 7.14. From the site inspection, this inspector noted that a pair of double gates provides vehicular access to the site, across a grass strip and high kerb from Shanowen Road and that the narrow pathway crossing the green strip to join the road at the front of the site is not wide enough for vehicular use and it does not align with the gateway, that it appeared that the dwelling was designed to have vehicular access from Shanowen Road only; and that the status and age of the vehicular entrance to the site from Shanowen Ave is unclear. I agree with the requirement imposed by the planning authority that the area to the front of the proposed dwelling, proposed for car parking by the proposed dwelling should not be so used, but should be devoted to landscaped private space associated with the proposed dwelling.
- 7.15. The existing and proposed dwellings are both within the site boundary as outlined and it could be construed that by requiring the garage to be used to provide parking for the proposed development, it might not be available for continued use by the existing dwelling. Since this is the approved vehicular access to the overall site its continued availability as a vehicular access to the existing dwelling should be ensured, and should the Board be disposed to grant permission, a condition to that effect should be attached.

7.16. **Building Line**

7.17. The building line is a matter of concern to the third party, who considers that the development breaches the long established building line along Shanowen Road and presents an unattractive blank gable to the road. The third party considers that the existing side gable of the dwelling at No. 23 respects the building line comprising the Spar shop and the set back student accommodation.

7.18. The opposite side of Shanowen Road is fronted by semi detached dwellings. The side of Shanowen Road on which the subject site is located is not fronted by semi detached dwellings but by a relatively modern development of blocks of apartments with some retail to the front which has replaced former factory buildings, and further along the road is fronted by industrial and enterprise type development. Unlike Shanowen Avenue, Shanowen Road does not have a regular or uniform building line but the proposed development will stand forward of other buildings along the road. In my opinion this is not of particular concern. It will not appear to be disorderly because it aligns with the building line on Shanowen Avenue and to the extent that it extends towards Shanowen Road, the creation of a gateway effect is not disorderly development.

7.19. The 2m high masonry wall running along the flank of the site adjoining the footpath along Shanowen Road will remain and the proposed dwelling will be inside that wall.

7.20. The third party, who has a property on the opposite side of Shanowen Road facing the site, is concerned at the unattractive blank gable which will be presented to the road. Although nearer the road, and in lieu of three small windows of the existing gable, the gable has a blank elevation, it is not excessively large and is screened by trees located in the footpath and by the existing boundary wall. In my opinion the building line and gable should not be reasons to refuse permission.

7.21. **Development Plan Criteria**

7.22. The third party considers that the development fails to adhere to the majority of the criteria for corner/side garden sites, set out in the development plan. The criteria which have been referred to earlier in this report list, in addition to building line, such matters as the character of the street, compatibility of design and scale with adjoining dwellings, proportion, heights, parapet levels and materials of adjoining

buildings. In my opinion the development as proposed, has considered these issues in its design and can not be faulted in this regard. In terms of the open space standards, it appears to me that there is adequate open space available within the site for both the existing and proposed development.

- 7.23. The development plan criteria, including those which refer to corner/side garden sites, should not be a reason to refuse permission.

8.0 Recommendation

9.0 Reasons and Considerations

- 9.1. In the light of the above assessment, I recommend that planning be granted, subject to the following conditions and for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the zoning: Z1 to protect, provide and improve residential amenity, and to the facilitation of dwellings in side gardens of suitable sites, subject to safeguards in relation to the existing character of the area, as set out in the Dublin City Development Plan, it is considered that subject to the following conditions the proposed development would not adversely impact on the character of the area or visual or residential amenities or traffic safety and would be in accordance with the proper planning and sustainable development of the area.

11.0 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. Vehicular access to the proposed development shall be provided only from the entrance from Shanowen Road, which shall also continue to be available as a vehicular access to the existing development at 23 Shanowen Avenue. Revised proposals showing pedestrian access only to the proposed development from Shanowen Avenue and showing landscaping proposals for the area to the front of the proposed dwelling (shown on the site layout as dedicated to the proposed dwelling) in lieu of the hard surface existing in this area, and also showing arrangements to be made to ensure that access from Shanowen Road, will be available to both the existing and proposed dwellings, shall be submitted for the written agreement of the planning authority, prior to commencement of development.

Reason: In the interest of orderly development and traffic safety.

3. The development hereby permitted is the erection of a dwelling at the side of the existing dwelling at No. 23 Shanowen Ave, Santry, Dublin 9 and the placement of a window in the rear elevation of No. 23, and does not include any internal alterations to the layout of No. 23.

Reason: In the interest of clarity.

4. 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.

5. Site development and building works shall be carried only out between the

hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 property in the vicinity.

6. During the construction and demolition phases, the proposed development shall comply with British Standard 5228: Noise Control on Construction and open sites Part 1: Code of practice for basic information and procedures for noise control.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. A proposal for house numbering shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of urban legibility.

8. The developer shall pay to the planning authority a financial contribution of €7348 (seven thousand three hundred and forty-eight euro) 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 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.

Planning Inspector

9th August 2017

Appendices

- 1 Photographs
- 2 Extracts from the Dublin City Development Plan 2016-2022
- 3 Extract from Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities