



An  
Bord  
Pleanála

## Inspector's Report PL 06D.248742

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<b>Development</b>	Extension to house and construction of house
<b>Location</b>	'Leysin', Crosthwaite Park East, Dún Laoghaire, County Dublin
<b>Planning Authority</b>	Dún Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0288
<b>Applicant(s)</b>	Carlo Crighton & Frances Duff
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Carlo Crighton & Frances Duff
<b>Observer(s)</b>	Celia McManus Crosthwaite Park Residents Association Nicole & Owen O'Sullivan Clarinda Park Residents Association

**Date of Site Inspection**

7<sup>th</sup> September, 2017

**Inspector**

Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The site of the proposed development, with a stated land area of 0.038 hectares, comprises the side and part of the rear garden of 'Leysin', a two-storey semi-detached Edwardian house with access onto a private laneway off Crosthwaite Park East in Dún Laoghaire. It also includes the area occupied by an existing single-storey extension to the side of 'Leysin'. The existing house forms one of six Edwardian semi-detached units south of a terrace of Victorian two-storey over basement dwellings on Crosthwaite Park East. The gable wall of the nearest house to the north (No. 32) adjoins the site.
- 1.2. The site and adjoining properties lie within the designated Crosthwaite Park Architectural Conservation Area (ACA).

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the construction of a four bedroom split level flat roof house of contemporary design, two storey to the front and three storey to the rear with a stated floor area of 242 square metres. A single storey extension to the side of the existing house would be demolished to facilitate the new development. The new house would be set back from the building line of the adjoining houses that flank the proposal.
- 2.2. Details submitted with the application included a photographic survey report.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 23<sup>rd</sup> May, 2017, Dún Laoghaire-Rathdown County Council decided to refuse permission for the proposed development for two reasons relating to overdevelopment of the site and the impact on Crosthwaite Park ACA.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted development plan provisions, objections received, a concurrent planning application, and departmental reports received. The site's context was addressed and its location within an ACA was noted. It was further noted that no precedent had been established in the vicinity for the type of development proposed. Accepting the proposed demolition of the extension to the side of the existing house to facilitate the new development, it was considered that the proposal constituted overdevelopment of the site due to the building height and proximity to adjoining properties. The proposal was also considered to be visually incongruous with adjoining dwellings and would detract from the visual amenities of the streetscape. The short rear garden length adjoining zoned residential land was referenced, while the area of open space was considered acceptable. The departmental reports received were noted. It was concluded that the proposal in its current form was unacceptable and a refusal of permission was recommended.

### 3.2.2. Other Technical Reports

The Conservation Officer noted the site is within the Crosthwaite Park Architectural Conservation Area (ACA) and adjoins a protected structure. The proposed development was considered unacceptable as it was viewed as overly-scaled and architecturally incongruous with the character of the streetscape. It was further considered that it did not accord with a range of Development Plan policy in relation to architectural conservation. A refusal of permission was recommended.

The Transportation Planning Engineer requested further information relating to the proposed vehicular entrance, vehicular movement and parking, and construction management.

The Drainage Engineer had no objection subject to one condition.

### 3.3. **Third Party Observations**

Objections to the proposal were received from William Slattery, David and Toni McDonald, Louis and Rosemary Smyth, Gerry Harvey, Calrinda park Residents Association, Christopher Grey, Celia McManus, James Walsh, Ross Cahill-O'Brien and John and Mary Taylor, Patrick and Anne Fullam, Crosthwaite Park Residents Association, Fiona Keogh, and Roland Monsegu. The observations submitted to the Board reflect the principal issues of concern raised in these submissions.

## 4.0 Planning History

P.A. Ref. D96B/0787

Permission was granted by the planning authority in 1997 for the demolition of a single storey extension to the side of 'Leysin' and the construction of a new two-storey extension with a single storey return, replacement of windows and alterations to the rear elevation.

## 5.0 Policy Context

### 5.1. Dún Laoghaire- Rathdown Development Plan 2016-2022

#### Zoning

The site is zoned 'A' with the objective "To protect and/or improve residential amenity".

#### Architectural Conservation

The site is located within the Crosthwaite Park ACA.

Conservation policies include:

#### *Policy AR1: Record of Protected Structures*

It is Council policy to:

- i. Include those structures that are considered in the opinion of the Planning Authority to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures (RPS).
- ii. Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- iii. Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the Department of the Arts, Heritage and the Gaeltacht 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011).
- iv. Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.

### *Policy AR12: Architectural Conservation Areas*

It is Council policy to:

- i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA).
- ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.
- iii. Seek a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.
- iv. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed.
- v. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

### Residential Development on Corner/Side Garden Sites

In these cases the Planning Authority will have regard to the following parameters:

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.
- Building lines followed where appropriate.
- Car parking for existing and proposed dwellings.
- Side/gable and rear access/maintenance space.
- Private open space for existing and proposed dwellings.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.

- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.

At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

In noting the planning authority's consideration that the site may be able to accommodate a new dwelling and the concern about the scale of the proposal, revised proposals are submitted to the Board. Changes include:

- the reduction in the width of the house,
- reduction of the house at first floor level,
- reduction in building height by 600mm,
- omission of the roof terrace at first floor level to the front and windows and doors on the front elevation at second floor level,
- reconfiguration of floor to ceiling heights to allow for realignment of windows,
- the addition of a rooflight at second floor level, and
- the omission of the front bay at second floor level. It is argued that these amendments fully address the reasons for refusal and concerns of residents.

The proposed house would be reduced in floor area from 244 square metres to 200 square metres.

The specific grounds of the first party appeal may be summarised as follows:

- The site is zoned for residential development subject to the need to protect and/or improve residential amenity.

- The proposal will provide a dwelling with a high standard of accommodation and design consistent with Development Plan policy.
- The dwelling as amended represents an appropriate form of infill development that would not detract from the adjoining protected structure or the ACA.

## 6.2. **Planning Authority Response**

The planning authority considers the revisions to the proposal constitute significant changes that were not amenable to public comment or observations from potentially affected parties and that the new proposal should be subject to a new planning application. It is submitted that the Conservation Officer has serious reservations about the revised design and that it would not be in accordance with the current Development Plan. The Board is asked to uphold the planning authority's decision.

## 6.3. **Observations**

Celia McManus, 28 Crosthwaite Park East, objects to the proposal on the grounds that it is a very restricted site, it does not accord with the zoning objective, and because it is contrary to conservation objectives of the Development Plan.

Crosthwaite Park Residents Association ask the Board to uphold the planning authority's decision, with concerns raised about the proposed building line and height.

Nicole O'Sullivan and others object to the proposal on the grounds that it is out of keeping with the area, it constitutes unnecessary densification, and that it would possibly block a right of way.

Clarinda Park Residents Association objects to the proposal on the grounds that it is contrary to policies, objectives and requirements of the Development Plan and considers the design amendments to be minor that do not address the fundamental grounds for refusal. Concern is also raised about the legitimacy of the applicants revising the design bypassing the rights of third parties to comment on such a proposal.



#### 6.4. Further Submissions

The Board invited a submission from David and Toni McDonald, No. 32 Crosthwaite Park East, in response to the appeal submission made. The third party argues that the revised design should have been submitted to the planning authority as a new application. The Board is asked to consider the original application only and to uphold the decision of the planning authority. Inaccuracies in submitted drawings are identified. The third party's original objection to the planning authority is included with the submission. The schedule of grounds of objection submitted to the Board relate to:

- Incorrect and misleading survey of No. 32 (a Protected Structure),
- Light and overshadowing impacts,
- Encroachment on gable maintenance space,
- Location of flues,
- Plot ratio and density,
- Amenity and heritage impacts,
- Surface water and flooding concerns,
- Traffic and parking issues, and fire certification.

#### 7.0 Assessment

7.1. I note the applicant's appeal submission provides an alternative design to that of the application that was before the planning authority. The proposed changes in design include:

- the reduction in the width of the house,
- reduction of the house at first floor level,
- reduction in building height by 600mm,
- omission of the roof terrace at first floor level to the front and windows and doors on the front elevation at second floor level,
- reconfiguration of floor to ceiling heights to allow for realignment of windows,

- the addition of a rooflight at second floor level, and
- the omission of the front bay at second floor level.

It is my submission to the Board that this proposal constitutes a new development and that the design changes constitute, at minimum, substantial and material changes to the proposed development. This new proposal does not provide minor modifications to the original design. Such a proposal should be the subject of a separate planning application. I recommend that the Board makes its determination based upon the original proposal made to the planning authority. The opportunity for the planning authority to adequately consider the new proposal or any other significantly amended proposal, and for third parties to be afforded the opportunity to offer views on such a proposal, could be appropriately provided for in a new application.

7.2. Further to the above, I submit that the applicant's new proposal attached to the appeal indicates that there is an acceptance that the original house proposal constituted overdevelopment of the site and that the planning authority's considerations on the impact on Crosthwaite Park ACA were acknowledged. I concur with the position taken by the planning authority on the original proposal for the following reasons:

- This is a tight, wedge-shaped site, demanding the removal of a side extension of an existing house to accommodate the developability of the site and, due to site constraints, there is a requirement for the proposed dwelling to be located in a most constrained section of the site, namely between established dwellings flanking it on a narrow section of the site.
- This required siting brings with it significant impacts. The northern gable of the three storey house would be less than one metre at its nearest point from the southern gable of No. 32 Crosthwaite Park East (a protected structure) and less than 1.5 metres from the gable of 'Leysin' to the south at its nearest point. There are several windows on the flank wall of No. 32 which serve several habitable rooms in this house, including a main dining room, a kitchen and bedrooms. The impacts in terms of overshadowing and blocking light to the gable of the adjoining house are evident when regard is had to the development's orientation relative to adjoining property, the proximity of the

development to the established house and the consequent shadow that would be cast. The development would also have a significant overbearing impact when viewed from the adjoining property due to its immediate proximity. In my opinion, the siting of a development at this location would have very serious impacts on the residential amenity of No. 32 Crosthwaite Park East. I would question the principle of the development of a house at this location due to the significant adverse impacts the development would have on the residential amenity of the established adjoining house, which is a protected structure.

- The scale of the proposal results in a footprint that provides excessive width and depth of development on the site. The inclusion of a shed further decreases the minimal leftover space to the rear of the house. The totality of this culminates in a large house served by a confined private open space that is shallow in depth, presenting concerns for the potential future developability of the lands to the rear and presenting a private open space to the rear uncharacteristic in this location, where dwellings are widely served by generous private open spaces. Indeed, this is an inherent characteristic or quality of the area that contributes significantly to the setting of the designated Architectural Conservation Area, providing breathing space around and between buildings.
- The design presents a contemporary form but it is overscaled as evidenced from above. This produces a development excessive in bulk, with somewhat of a mishmash of setbacks and recesses that attempt to address overbearing impacts on adjoining properties, a palette of uncharacteristic finishes, and a building excessive in height adjoining 'Leysin'. This culminates in a demonstrably visible incongruent building form that is somewhat intrusive on the context of this sensitive location within the ACA.
- The outcome of such an inappropriate intervention further results in the loss of the relationship between blocks of period residences in a sensitive location within the ACA. The relevance of this side garden space in defining the separation between blocks of different period residences should not be misunderstood and a serious question arises, in my opinion, as to the suitability of this space for the development of a new dwelling in principle due to the effects visually in the context of the ACA.

I note that there is no precedent for a development of this nature in the vicinity. Creating a new precedent in such a context would be of concern for relevant intervening spaces between buildings within the ACA that are of themselves important in the relationship between structures as alluded to above.

7.3. Having regard to the above, I note the Development Plan provisions as they relate to residential development in side gardens and Plan policies as they apply to built heritage. With regard to the former, my considerations are as follows:

- In terms of size, design, layout, and the relationship with the existing dwelling and immediately adjacent properties, the proposal is definitively out of context as referenced above.
- The adverse impact on the amenities of neighbouring residents is significant.
- The accommodation standards for occupiers, in terms of the structure, are sufficient.
- While Development Plan standards for the existing and proposed dwellings in terms of parking provisions, private open space relative to existing and proposed bedspaces are met, I consider the layout and arrangement of the new development, particular in terms of restricted access, confined availability for vehicular movement, and the shallow depth of rear garden space do not fit well in this ACA and, in particular, at this sensitive junction between blocks of period residences.
- While required to attempt to meet building line requirements, the constraints of the wedge-shaped site provide problems to achieve the scale of the development proposed.
- I note that car parking is adequately provided for existing and proposed dwellings.
- It is apparent that the restricted nature of the site causes significant concerns for access around the structure and for space to allow for sufficient maintenance of the structure itself and the adjoining structures.
- The level of visual disharmony is tangible and it is difficult to relate the contemporary design at this particular sensitive location between Edwardian

and Victorian structures due to the incongruity of building form, finishes, height and bulk.

Overall, I consider the proposed development is misplaced at this location and is substantially in conflict with the Development Plan provisions as they relate to sites in side gardens.

7.4 With regard to built heritage policy, my considerations are as follows:

- It is Council policy under Policy AR1 to protect structures included on the RPS from any works that would negatively impact their special character and appearance. I am firmly of the view that the proposed development has a very significant adverse impact on No. 32 Crosthwaite Park East due to its form and character, proximity and consequential effects on the character of its setting, its effects on the amenities of this property and the derogatory impacts on its relationship with the adjoining Edwardian dwellings.
- It is Council policy under Policy AR12 to
  - i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA);
  - ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area; and
  - iii. Seek a high quality, sensitive design for any new development(s) that are complimentary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design.

I am satisfied to conclude that the imposition of the proposed development on this site in this particularly sensitive location is misplaced, undoubtedly does not sit comfortably with the distinct character of this area, and is an insensitive design in both context and scale, notwithstanding its contemporary design.

7.5 Should the Board consider the applicants' new proposal presented in the first party appeal, I must first repeat my serious concerns about the principle of the development of a dwelling on this site due to its physical constraints affecting the

setting of a protected structure, its likely adverse impacts on residential amenity, its unsuitability in a particularly sensitive context, and the effect of the precedent that would be caused for this ACA and indeed others in the wider area. Further to this, I consider the new proposal does not address the problems resulting from the original design as it results in a development where there is no respect in terms of adequate separation between adjoining structures. This imposes on the visual quality of the streetscape at this sensitive location and fails to address the serious adverse impacts the development would have on the functioning of No. 32 in terms of impacts on light and overbearance. The development of a house on this restricted site is, in my opinion, clearly a case of overdevelopment that would be detrimental to the character of the ACA.

- 7.6 Finally, I note that a wide range of other issues have been submitted by observers, including concerns about vehicular access, parking, surface water, flooding etc. I consider that the significant planning issues relate to the suitability of the development proposed and the effects of this development on an adjoining protected structure and on the ACA as referred to above. The ability to address drainage, traffic and other concerns may be surmountable with suitably engineered provisions made on site.

## **8 Recommendation**

I recommend that permission is refused in accordance with the following reasons and considerations.

## **9 Reasons and Considerations**

1. The site of the proposed development is located within the Crosthwaite Park Architectural Conservation Area, a historic residential suburb developed at the mid-19<sup>th</sup> and early 20<sup>th</sup> centuries, which includes Crosthwaite Park East, a uniform terrace of Victorian houses comprising protected structures, that is separated from three pairs of semi-detached Edwardian houses, the nearest of which is 'Leysin' on the appeal site. The policies and objectives of

Dún Laoghaire-Rathdown County Development Plan 2016-2022 seek to protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA), ensure that all development proposals within an ACA be appropriate to the character of the area, and protect structures included on the Record of Protected Structures from any works that would negatively impact their special character and appearance. Having regard to the sensitivity of the site within the designated ACA, forming an important separation space between Victorian and Edwardian blocks, the incongruous form, excessive scale, bulk and height of the proposed development, and the proximity of the proposed development to adjoining dwellings, and in particular to No. 32 Crosthwaite Park East (a protected structure), it is considered that the proposed development would be out of keeping with the pattern of development in the Architectural Conservation Area, would seriously injure the visual amenity and character of this Area, would be injurious to the amenities of adjoining residential property by way of overshadowing and overbearing impact, would adversely affect the setting of the adjoining protected structure, and would be contrary to the Development Plan policies. The proposed development would, therefore, give rise to a poor standard of development on this sensitive site, would constitute overdevelopment of the plot at 'Leysin', and would, thus, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

7<sup>th</sup> September 2017