



An
Bord
Pleanála

Inspector's Report 29S.249016

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| Development | Demolition of garage and construction of a dwelling within the curtilage of a Protected Structure with vehicular access and associated site works. |
| Location | Rear of 12 Highfield Road, Rathgar. Dublin 6 |
| Planning Authority | Dublin City Council. |
| Planning Authority Reg. Ref. | 2927/17. |
| Applicant(s) | John Purcell. |
| Type of Application | Permission. |
| Planning Authority Decision | To Grant Permission. |
| Type of Appeal | Third Party |
| Appellant(s) | Highfield Grove Residents Association. |
| Observer(s) | Rathgar Residents Association. |
| Date of Site Inspection | 18 th October 2017. |
| Inspector | Breda Gannon. |

1.0 Site Description

- 1.1. The site is located at 12 Highfield Road, Rathgar, Dublin 6. It accommodates a detached two-storey dwelling (Protected Structure) with later extensions to the rear. The late nineteenth century residence consists of a three-bay, brick finished dwelling house set on a substantial site. The garden to the front of the house is enclosed by railings on a low plinth wall. To the rear there is a garden enclosed by stone walls and vegetation. There is a single-storey garage/shed running along the rear boundary, with access onto the adjoining laneway to the east.
- 1.2. The site is bounded to the north by Highfield Road, and to the east by Highfield Grove, a quiet laneway that provides access to a cluster of houses to the rear and to a more modern house opposite the site. To the south, the site is bounded by a service laneway that runs along a terrace of single-storey houses on Highfield Grove, and to the west by a large detached two-storey residence.
- 1.3. The area is residential in character, consisting primarily of detached and semi-detached dwellings.

2.0 Proposed Development

- 2.1. The development as described in the public notices submitted with the application proposes the following;
 - Demolition of garage.
 - Construction of two-storey over basement dwelling within the curtilage of a protected structure.
 - Modifications to existing boundary walls and landscaping, provision of vehicular and pedestrian access from Highfield Grove and associated site works.

The proposal is to demolish the shed/garage located along the rear boundary of the site and to construct a new dwelling in this location. The house would have a 'T' shape configuration and accommodate the main living areas on the ground floor with two bedrooms at first floor level. The basement would provide a third bedroom in addition to gym/office and living/playroom. The house would have a flat roof (5.7m

above ground level) and finished externally in brick. Vehicular access from the site would be via Highfield Grove

The application is supported by an Architectural Heritage Impact Assessment report.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to grant permission for the development subject to 13 no. conditions, which contains the following conditions of note.

Condition No 3 – Details of materials, colours and textures of all external finishes including samples to be submitted and agreed in writing with the planning authority, prior to commencement of the development.

Condition No 4 – Removes exemption on extensions, garages etc provided for under Schedule 2 Part 1 of the Planning and Development Regulations, 2001, as amended.

Condition No 5 – No additional development above roof level.

Condition No 6 – Green roofs shall not be used as sitting out areas.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The **Planning Officer's** report of 30/6/17 considers that the proposed development is acceptable and would not affect the character, scale or setting of the protected structure. Having regard to the separation distance, the two-storey height and orientation of the dwelling, the proposed development would not give rise to undue impacts in terms of overlooking and overshadowing of neighbouring properties. Having regard to the setback of the proposed flat roof two-storey dwelling from the boundary with Highfield Grove, and the retention of the majority of the existing granite boundary wall as screening, the proposed development would not seriously impact on the visual amenity of the residential conservation area.

The basement development would have two courtyard areas to provide natural light and ventilation and would have good separation distances to the Protected Structure

and neighbouring dwellings. It would not extend to more than 50% of the existing amenity/garden space and is not located in flood zone areas Zone A or Zone B.

It was concluded that the proposed development, subject to conditions, was consistent with the provisions of the development plan and the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

The **Drainage Division** in their report of 20/6/17 raised no objection to the development subject to conditions, which in addition to standard requirements, included the following,

- that all basement drainage must be lifted, via pumping, to a maximum depth of 1.5m below ground level before being discharged by gravity from the site to the public sewer.
- the developer shall ensure that an appropriate flood risk assessment, in accordance with OPW guidelines, is carried out for the proposed development.

3.2.3. The **Conservation Officer's** report of 22/6/17 noted that there are no substantive conservation issues other than those raised in the previous report of reg.ref no 4160/15.

3.2.4. The **Roads & Traffic Planning Division** report of 29//6/17 noted there is an existing garage with vehicular access directly onto Highfield Grove and that the principle of vehicular access is therefore established. The planning history relating to the site was noted, which permitted a residential unit with vehicular access. It is proposed to provide 1 no. car parking space which is in accordance with development plan standards. The report raised no objection to the development subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of observations were received which in addition to the matters raised in the appeal raised the following issues;

- No tradition of building with basements.
- Height and scale of dwelling.
- Private amenity space provided.
- Distance to opposing first floor windows.
- Architectural impact on Highfield Grove.
- Access point is to a shed and not a vehicular access. Restricted width of laneway, adequacy of car parking.
- Adequacy of existing sewer.
- Construction impacts.
- Impacts on existing street light.
- Precedent.

4.0 **Planning History**

4160/15 – A decision to grant permission for a two-storey mews dwelling within the curtilage of the protected structure, with modifications to existing boundary walls and landscaping, vehicular access from Highfield Grove and associated site works was upheld by the Board (PL29S. 247011).

5.0 **Policy Context**

5.1. **Development Plan**

The operative development plan is the **Dublin City Council Development Plan 2016-2022**. The site is located in an area zoned Z2 – Residential Neighbourhoods (Conservation Areas) with the following objective;

‘To protect and/or improve residential conservation areas’.

Residential development is a permitted use in this zoning category.

Standards for Residential Accommodation (houses) are set out in Section 16.10.2 and the requirements for Mews Dwellings are set out at Section 16.10.16. Basement development is addressed in section 16.10.15.

Policy SI13 - The development of basements or any above ground level buildings for residential use below the estimated flood levels for Zone A or Zone B will not be permitted (Section 9.5.3 Flood Management).

Policies in relation to Conservation Areas/Residential Conservation areas are set out in Section 11.1.5.4 of the Plan.

Policy CHC2 – Seeks to ensure that the special interest of protected structures is protected.

Policy CHC4 -Seeks to protect the special interest and character of Dublin's Conservation Areas.

Volume 4 of the Plan contains the Record of Protected Structures. The policies in relation to Protected Structures are set out in Section 11.1.5.1.

Relevant sections of the Plan are appended to the back of the report for the information of the Board.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised below;

- There are a number of mature and young trees on the site. A tree survey has not been submitted as provided for under section 16.3.3. of the development plan.
- The development will be clearly visible above the roofline of No's 17-20 Highfield Grove, although the Architectural Heritage Impact Assessment states that its presence will be imperceptible.
- It is the policy of Dublin City Council as set out in section 16.10.15 of the development plan to discourage any significant underground or basement development adjacent to residential properties in Conservation Areas or

Protected Structures. There is a known underground river running close by. There are concerns regarding subsidence during excavation as the wall of the house is only 6m away from the back walls of No's 18-20 Highfield Grove.

- It is unclear how the proposed basement satisfies the development plan requirements with regard to sunlight/daylight.
- Concerns regarding pedestrian and road safety. There are two proposed pedestrian gates exiting directly onto the roadway. The pavement is on the opposite side of the road.

6.2. Applicant Response

The applicant's response to the grounds of appeal are as follows:

Existing trees – No request for a tree survey has been made for the current or previous applications on the site and it is assumed that none is required due to the small nature of the works. There are no Tree Preservation Orders on the site. The development is relatively modest and views from the public carriageway will only be affected by the removal of three trees of any visual significance. The alterations proposed match those previously proposed under 4160/15 (PL29S.247011). Future landscaping will allow new planting will be provided on the site.

Height of development – Visuals produced through 3D modelling software have previously been provided, which confirm that at no point will the proposed dwelling be visible above the roof line of No's 17-20 Highfield Grove, when viewed from the south of these cottages. In this regard it is requested that the Board reviews Dwg No 1505 – P – 205, in particular Perspective 1, which highlights the lack of visual impact on these properties. The comments of the planning officer are noted which concluded that the development would not affect the character or scale of the protected structure, the amenities of the residential conservation area or the residential amenities of adjacent property.

Basement – Section 16.10.15 of the development plan states that 'the permissible size of a basement development to the rear of a property will be guided by the characteristics of the site'. The proposed basement is a minimum of 10.8m from the existing protected structure and could not be considered to be adjacent to the Victorian dwelling.

The proposed basement will be located 10.5m from the original line of dwellings to the rear and it is not envisaged that excavation work will affect the adjacent area. The structural integrity of the proposed dwelling is more appropriately determined with reference to Part A of the Building Regulations and would not fall within the remit of the planning process.

With regard to sunlight/daylight, all habitable rooms have been provided with glazing in excess of the development plan requirement of 20%. Minimum background and purge ventilation requirements are specified in TGD Part F of the Building Regulations and the issue does not therefore fall within the remit of the planning process.

Underground river – Attached is a copy of Dublin City Council's drainage layout in the vicinity of the site and a record of correspondence from Dublin City Council which confirms that no such river exists. The matters raised in relation to the basement have been assessed in the planning officer's report.

Access – One vehicular access and two pedestrian access points are included as part of the development. The pedestrian access points are located to the rear of the respective properties and are not intended as a primary entry/egress point but would be mainly used for the purposes of maintenance. Both external doors will open inwards to the site boundary.

In terms of pedestrian access, the proposed design is similar to that previously granted, except that one additional access point is included to allow continued rear garden access from the existing house at No 12 Highfield Road to the adjacent side street.

The main access gate is for primarily vehicular use and has been designed to allow for enhanced visibility of localised traffic. The design matches that previously permitted. The Roads & Traffic Planning Division raised no objection to the proposal.

6.3. Planning Authority Response

No response to the grounds of appeal were submitted by the planning authority.

6.4. Observations

Rathgar Residents Association note the following;

- The drawings indicate the proposed building protruding above and behind the houses on Highfield Grove, which are single storey.
- The planning authority have ignored the objectives of its own development plan and proper planning and development practices in permitting basement development in this area. Serious flooding has occurred on this part of Highfield Road on several occasions in the past. Attached is a list of properties that were flooded on October 2011 and Highfield Road is indicated.
- The proposal is a very large development (237m²) to be permitted on the back lanes of Rathgar adjacent to artisan cottages and protected structures. It is proposed as three bedroom but there is nothing to stop it becoming 5/6 bedroom with minimal internal intervention. It is almost as large as the protected structure, and like the main building it is three-storey.
- There is a deficiency of adequate private open amenity space for the development. For the size of the proposal, 5 bedrooms are the norm. A development of 9 no. bedspaces would generate a requirement for 900 m² to meet the development plan requirements.

The submission is supported by a copy of a Report on Flooding by Dublin City Council.

7.0 Assessment

7.1. The main issues that arise for determination by the Board in respect to this appeal relate to the following;

- The principle of the development.
- Impacts on the visual amenities of the area.
- Impact on residential amenities of the area.
- Impacts on protected structure and residential conservation area.
- Road Safety.

- Basement/Flooding.
- Appropriate Assessment.

1. The principle of the development.

The site is located in a Z2 zoned area where the principle land use is housing. Subject to good planning practice and compliance with the provisions of the development plan, I accept that the proposal is acceptable in principle in this location.

The Board has already accepted the principle of a house on the subject site (PL29S.247011 applies).

2. Impacts on the visual amenities of the area.

The proposal is to build a house on the same site as that originally approved by the Board under PL29S.247011. The floor area would be increased by c. 95m². Whilst there would be minor alterations at ground and first floor, the principle change proposed is the provision of basement accommodation (92m²).

The overall scale, bulk and height of the house above ground level remains largely unchanged. The main alteration is that the first floor level has been set back by a further 1m from the eastern boundary, with a corresponding reduction in the distance to the western boundary. Similar external finishes, roof profile etc., are proposed with no substantial alteration in the position/size of glazed elements.

The proposed house, with a lower ridge height and located to the rear of higher two-storey properties, would not be visible from Highfield Road. It would not result in any adverse impacts on the visual amenities of the streetscape, or the character of the area. The proposed house would come into view along the east side of the Protected Structure on Highfield Grove, however, its impact would be highly localised, minimised by the set back of the first floor and the high granite wall that forms the side boundary, the majority of which would be retained.

I consider that the contemporary design incorporating a flat roof and recessed first floor, the use of sympathetic materials and the height and scale of the house ensures that the proposal can be assimilated into its surroundings without adverse effects on the visual amenities of the area. Being marginally higher than the houses to the rear and significantly lower than the height of the Protected Structure, the

development would form an effective transition along the laneway. The Board has in its previous decision accepted that the site has the capacity to absorb the proposed development and that no significant impacts would arise that would compromise the visual amenities of the area.

I consider that the issues raised regarding impacts on the houses and open space at Highfield Grove to be largely unfounded. Whilst there would be views of the proposed house from the laneway to the rear of the nearest terrace, the impact would be highly localised and mitigated by the first floor set back (3.8m). Whilst the roof of the house would project marginally above the ridge line of the terrace and come into view from the opposite side of the open space, the impact would be minimal and not be of such magnitude to warrant refusal of the development on these grounds. Furthermore, the Board can be satisfied the proposal does not give rise to any additional impacts over and above those already considered by the Board, in its previous decision.

It will be necessary to remove vegetation and some trees to facilitate construction. No issues in this regard were raised by the Board in its consideration of the previous proposal on the site.

3. Impact on residential amenities.

A number of issues have been raised regarding potential impacts on residential amenity relating to inadequate separation distances to adjacent property and inadequate open space provision.

There are residential properties to the west and south of the subject site and on the opposite side of the laneway leading to Highfield Grove. There are no significant alterations proposed to the design of the house already approved by the Board which would adversely impact on the residential amenities of adjacent property. It is proposed to retain existing boundary walls to the rear and sides and to construct a new wall separating the site from the main house, which would reduce the potential for overlooking and loss of privacy. There are no windows proposed at first floor level in the north, south or west elevations. The windows in the east elevation facing the laneway would serve bedrooms and a bathroom and are sufficiently removed from third party property not to result in a diminution of the amenity of dwelling.

The increase in floor area proposed would primarily be accommodated at basement levels. The quantum of private open space associated with the main house will remain unchanged ensuring that the amenity of the protected structure is not compromised. There would be a marginal reduction in the private amenity space associated with the new house, from that previously proposed, but the level of provision would comply with the development plan requirement of 10m² per bedspace. The appellant's argument regarding the potential for other rooms to be used as bedrooms resulting in inadequate open space is purely speculative. Each of the rooms is adequately sized to comply with space requirements and are designed to achieve adequate sunlight/daylight, ensuring that an adequate level of residential amenity is afforded to future occupants.

4. Impacts on Protected Structure and residential conservation area.

The height, layout and design of the development remains broadly similar to that already assessed by the Board and considered acceptable in terms of impacts on the character, setting and amenities of the Protected Structure and the Residential Conservation Area. It is not considered that the provision of a basement level, which would be concealed from view, would generate any significant additional impacts, to warrant refusal on these grounds.

5. Road Safety

There is a single-storey garage located to the rear of the site, which has direct access onto Highfield Grove. It is proposed to demolish the garage to facilitate the development and to widen the access to the site. Parking space would be provided for 1 no. car in accordance with development plan standards. The entrance would be fitted with sliding timber gates, corresponding with the height of the boundary wall. Whilst I accept that Highfield Grove is a narrow roadway, I do not consider that the proposal for a residential unit with access onto the laneway generates any additional considerations from a road and traffic safety perspective, over and above those already considered by the Board.

The appellant has raised issues regarding the provision of 2 no. new pedestrian access points onto the laneway and the implications for traffic and pedestrian safety. Separate accesses are proposed for the existing and the proposed house. The Board will note that the former is located outside the application site and does not therefore part of the subject application.

Whilst I accept that there is no footpath on this side of the laneway and that this could pose safety concerns, I am mindful of the limited level of pedestrian activity likely to be generated by the development, the low level of traffic on the laneway and the location of the access at a remove from junctions/corners.

6. Basement/Flooding

The basement is a significant additional component to the dwelling originally approved by the Board. It would provide a third bedroom and ancillary accommodation. Issues have been raised in the appeal regarding compliance with development plan policies, light and ventilation to basement rooms, risk of subsidence to adjacent properties and flood risk.

The Plan, at section 16.10.15, discourages significant basement development adjacent to Protected Structures and residential property in Conservation Areas. Whilst the proposed development is located within the curtilage of a Protected Structure, it will not by its nature compromise its character or setting. There is no basement associated with the existing house and with a separation distance in excess of 10m, it is considered that construction can be effectively managed to avoid disturbance to major features and to ensure that the structural integrity of the building is not compromised.

It is also development plan policy to discourage basement development above the estimated flood levels for Zones A or Zone B (Dublin City Council Development Plan SFRA). The site is located outside these flood zones, where there is a low risk of fluvial/coastal flooding. The Board will note that the First Party rebuttal is supported by correspondence from the Drainage Division of Dublin City Council, which states that there is no underground river in the area as contended.

I accept that the Highfield Road area, like many other areas throughout the city has experienced pluvial flooding due to significant rainfall events. I accept that a subsurface structure for residential use would constitute a highly vulnerable form of development and could be susceptible to both ground water and storm water flooding. Subject to flood resistant construction using flood resistant materials to prevent potential ingress of groundwater, and the provision of an appropriate storm water management system within the site to cater for storm water discharges, I consider that the potential flood risk can be mitigated. I note that an external escape route is available from the basement area.

The basement will be provided with natural light and ventilation via a linear courtyard on the north side and a smaller sunken courtyard to the east, ensuring that a reasonable level of amenity is provided for future occupants.

With regard to potential subsidence, the developer has a duty of care to protect adjoining property and exercise due diligence that damage does not occur. Furthermore, the granting of permission does not diminish the rights of adjacent property owners.

7. Appropriate Assessment

Having regard to the location of the development within a built up area which is connected to public services, the nature and scale of the development and the separation distance from Natura 2000 sites, I consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effect on any other European Site, in view of the sites conservation objectives and that, therefore, a Stage Appropriate Assessment and the submission of a Natura Impact Statement is not required.

Conclusion

- The principle of a house on this site has already been accepted by the Board.
- The scale, design and layout of the house above ground level is similar to that previously approved by the Board.
- The proposal would not give rise to any additional impacts in terms of the protection of the visual and residential amenities of the area.
- There are no additional impacts on the character and setting of the Protected Structure or the residential conservation area.
- The provision of a basement level is the main alteration proposed. It would not generate any additional impacts on the residential or visual amenities of the area. Subject to appropriate construction and the installation of a comprehensive and effective storm management system, it is not considered that a flood risk would arise.

8.0 Recommendation

- 8.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the

planning issues, I recommend that permission be granted for the development for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the zoning Objective 'Z2' for the area as set out in the Dublin City Development Plan 2016-2022, the pattern of residential development in the area and the planning history relating to the site, it is considered that subject to the conditions set out below, the proposed development would not impact negatively on the character and setting of the Protected Structure or the residential and visual amenities of the Residential Conservation Area, would be acceptable in terms of traffic safety and convenience and would not pose an unacceptable risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 conditions in writing with the planning authority prior to commencement of the development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. Details of the materials, colours and textures of all the external finishes of the proposed dwelling shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Reason: In the interests of visual amenity.

3. 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. All internal basement drainage shall be lifted via pumping to a maximum depth of 1.5m below ground level before being discharged by gravity from the site to the public sewer. Full details of the drainage system for the entire site, which shall incorporate storm management measures and SuDs shall be submitted to and agreed in written with the planning authority prior to commencement of the development.

Reason: In the interest of public health and to reduce the risk of basement flooding.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground).

Reason: In the interests of visual and residential amenity.

5. Development described in Classes 1 or 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwellinghouse, without a prior grant of planning permission.

Reason: In the interests of residential and visual amenity and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling.

6. 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 the development. The plan

shall provide details of intended construction practice for the development, including hours of working, noise management measures and offsite/disposal of construction/demolition waste.

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

7. Apart from the PV panels shown on the drawings submitted, no further structures of any kind (including water tanks/enclosures) shall be erected on the roof of the proposed development.

Reason: In the interest of visual amenity.

8. The grass roofs shall not be used as sitting out areas.

Reason: In the interest of residential amenity.

9. 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 planning 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 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.

Breda Gannon
Senior Planning Inspector

27th, October 2017