



An
Bord
Pleanála

Inspector's Report PL29S.249137

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| Development | Demolition of dwelling and construction of a replacement dwelling and provision of a new dwelling in the rear garden with new vehicular entrance. |
| Location | 21 Beach Road, Sandymount. Dublin 4. |
| Planning Authority | Dublin City Council. |
| Planning Authority Reg. Ref. | 3110/17. |
| Applicant(s) | Vivian Healy. |
| Type of Application | Permission |
| Planning Authority Decision | Split Decision |
| Type of Appeal | First Party |
| Appellant(s) | Vivian Healy. |
| Observer(s) | Caroline Mc Kenna Cooper & David Cooper. Maura Whelan A & C Clarke. |
| Date of Site Inspection | 17 th October 2017. |
| Inspector | Breda Gannon. |

1.0 Site Location and Description

- 1.1. The site is located at No 21 Beach Road, Sandymount Dublin 4. It accommodates a two-storey detached residence, which has a single-storey flat roofed garage on its north side. The house is unoccupied and in a dilapidated condition, but retains original features including a slated roof, red brick chimney pots and terracotta ridge comb. Wrought iron railings on a low plinth wall enclose a small garden to the front. To the rear there is a narrow rectangular garden enclosed on both sides by stone walls. There is a ruined stone outbuilding close to the back of the house. Outside the rear boundary, a single-storey building with access onto the adjoining laneway is built up tight against the boundary wall.
- 1.2. The site is adjoined to the east by Beach Road, to the north by adjacent two-storey dwellings and to the south by the single/two-storey dwellings that front onto Seafort Avenue. The area forms a residential suburb to the south of the city centre. Sandymount village, located to the south east provides a range of facilities for local residents.

2.0 Proposed Development

- 2.1. The development as described in the public notices submitted with the application proposes the following;
- The demolition of the detached dilapidated dwelling on the site.
 - Construction of a replacement dwelling.
 - Construction of a new detached two-storey dwelling in the rear garden.
 - New front vehicular entrance.

The replacement house (166m²) would occupy a similar footprint to the original dwelling. It would be similar in design, scale, height and proportions. External finishes would include rendered walls with a natural slate roof and timber windows and doors. The 4 no. en-suite bedrooms would be accommodated on the ground floor with living accommodation at first floor level.

The proposed new dwelling (90 m²) would be located to the rear of the replacement house. It would be two-storey in scale with a ridge height of c 7.1m. External finishes would comprise rendered walls, a natural slate roof covering and timber windows and doors. The house would be located c 3.5m from the rear site boundary. Vehicular access would be via a new entrance to be constructed at the front of the site.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority issued a Split Decision.

A decision to grant permission was issued in respect of the demolition and replacement of the existing dwelling on the site subject to 8 no. conditions.

Condition No 2 required that the original roof materials, including the natural slates, brickwork to the chimney stacks, original chimney pots and decorative ridge comb be retained and reused where possible in order to replicate the original roof structure and decorative detailing.

A decision to refuse permission was issued in respect of the proposal to construct a new dwelling house to the rear and for alterations to the front boundary railings and plinth to provide a new vehicular entrance. The grounds for refusal related to the overbearing impact of the development on adjoining properties, which would be seriously injurious to their amenities. It was considered that the proposal would be contrary to the Z1 zoning objective and contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The **Planning Officer's** report of 2/8/17 notes that the proposal is located within an ACA. While it is not a Protected Structure, it does have a number of distinctive features that are listed in the Sandymount ACA Report as contributing to the special architectural character of the Sandymount area. These include the cast iron railings

and plinth that forms the front boundary treatment, the roof details including original natural slates, decorative slate detailing on the front elevation of the mansard roof, terracotta ridge comb and the decorative brickwork chimneys and chimney pots. Section 7.0 of the ACA report discourages removal of original features and replacement with modern interventions which would detract from the character of the ACA.

Having regard to the dilapidated condition of the existing dwelling, its replacement is considered acceptable subject to retention/re-use of as much of the original roof materials as possible in order to retain the architectural character of the original property.

A feature of the replacement house is to provide living accommodation on the upper floor to make best use of the views from Beach Road. Floor to ceiling doors are proposed on the rear elevation at both ground/first floor levels. Whilst concerns were raised regarding overlooking from these opes, the existing sheds and outbuildings to the rear of these properties would prevent any overlooking of the private rear gardens.

It is also proposed to construct a new house to the rear. Development of this nature is considered to be 'backland development' in the development plan where careful consideration of impacts on existing residential development is required.

Although the proposal would meet the minimum development standards for new dwellings there is concern regarding the positioning of the dwelling in terms of its impact on existing residential development. The building would extend to the site boundaries of the rear gardens of No's 22 Beach Road and No's 35 and 37 Seafort Avenue. This would entail a gable wall of 4.9 m directly adjacent to the existing rear gardens of these properties and would have an overbearing impact on existing private open space. The development could also result in some overshadowing of the properties on Seafort Avenue in the evenings.

Whilst it may be possible to accommodate an additional residential unit on the site, it is considered that the nature and scale of the current proposal would result in an overbearing impact on existing residential development and have a negative impact on the existing residential amenity of adjoining properties.

3.2.2. Other Technical Reports

The **Roads & Traffic Planning Division** report of 25/7/17 notes the potential conflict from both entrances that may arise if a boundary wall is placed in the front garden to separate the properties. This would result in insufficient turning space for vehicles serving the proposed new house to the rear, leading to vehicles reversing onto Beach Road causing a traffic hazard.

A shared parking area provided to the front would be preferable. The vehicular entrance could be provided at either of the locations indicated within the application drawings, or, through a centrally located entrance. It is recommended that further information be submitted to include revised drawings showing shared access and parking, auto track drawings showing that the space is sufficient for manoeuvring of vehicles within the site and clarification that it is not intended to provide a dividing wall to the front.

The **Drainage Division** report of 17/7/17 raise no objection to the development subject to standard conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Observations were received from a number of local residents. The issues raised relate to the following;

- Overdevelopment of the site.
- Overlooking of rear gardens and impacts on privacy.
- Inadequate separation distances between opposing first floor windows.
- Impacts on privacy arising from location of living room space at first floor level.
- Overshadowing and loss of light.
- Proximity to rear gardens of adjoining property.
- Non-compliance with minimum room standards, open space requirements etc.

- Non-compliance with development plan criteria for backland development.
- Traffic hazard created by additional access.
- Height of new dwelling in relation to existing houses.
- Proposals are unsympathetic to the special character of the area.

4.0 **Planning History**

No relevant planning history has been identified by the planning authority.

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 Z1 – Sustainable Residential Neighbourhoods, with an objective *‘To protect, provide and improve residential amenities’*.

Relevant sections of the development plan include - Residential Quality Standards (Section 16.10.2) and Backland Development (Section 16.10.8) and Infill Housing (Section 16.10.10).

The site is located within the Sandymount Village & Environs ACA.

Extracts from 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 appeal is against the decision by Dublin City Council to refuse permission for the new dwelling to the rear of the site and alterations to the front boundary railings and plinth to provide a new vehicular entrance.

The principle of a new dwelling at the rear of the site was considered acceptable in principle at pre-planning discussions with the planning authority. Noting the planning authority's issues regarding the overbearing impact of the dwelling on adjoining properties, a revised proposal is submitted replacing the proposed two-storey dwelling with a dormer bungalow (Dwg 3227/21A refers). The first floor element is reduced in area providing 2 no. bedrooms.

It is considered that permission should be granted for the new vehicular entrance. Dwg No 3227/21A includes a proposed front garden plan with no alterations to the front railings and plinth and two cars can enter and exit the front garden via the existing vehicular entrance.

6.2. Planning Authority Response

The planning authority did not respond to the grounds of appeal.

6.3. Observations

The planning authority's decision to refuse permission for the new house addressed the principle concerns of the observers. One issue that was not addressed was the objection to the living room with a large window overlooking adjacent properties, which would result in a diminution of the privacy of these dwellings.

The applicant seeks to limit the appeal to that element of the decision to which the refusal relates and particularly the new house to the rear. It is considered that the application should be considered de novo. The matter of the house to the rear cannot be determined in isolation as part of the appeal includes proposals for car parking and vehicular entrance to the front.

In lodging the appeal, the applicant has submitted a revised proposal reducing the size of the proposed house. Given the extent of changes, it is contended that this procedure has been incorrectly carried out. The revised proposal is materially different from the application as originally submitted. The issues that arose in the first instant are still pertinent.

By amending to dormer accommodation, the first floor rear windows are moved c.1.3m further from the rear boundary, but this is still an unacceptable distance at c 4.9. In addition, the overlooking of the rear garden of No 22 and the rear garden of the replacement dwelling at No 21 remains an issue. This is exacerbated by the minimal separation distances between the replacement dwelling and the new dwelling. The large floor to ceiling glazing to the first floor living accommodation to the replacement dwelling compounds the issue and reliance cannot be placed on existing sheds and outbuildings, which are by their very nature temporary. The reliance on them remaining in place imposes restrictions on the manner the owners can adopt and use their private open space.

The amended proposal results in 2 no. bedrooms in dormer arrangement. The rooms fall short of minimum aggregate sizes. The area of private open space at 20.5 m² is less than that required for a 4 bed spaces or the 3 spaces, if the room to the rear is assessed as a single room. A total of 80 sq.m is required by the replacement house which has a total of 8 no. bed spaces. The private open space is directly overlooked by the proposed house to the rear and intrudes on its privacy. The replacement house also intrudes on the privacy of the new house, as a result of the overbearing window and living accommodation at first floor level.

The proposal to develop a two-storey dormer building in this area is inappropriate for its setting, especially in its context as an ACA. The planning authority determined that a full two-storey building was unacceptable. The revised proposal continues to impact on adjoining properties in an unacceptable manner. The site is not large enough to accommodate the proposal, which results in development plan standards not being met, with an unacceptable impingement on the main house and the properties in the vicinity.

The proposal does not satisfy the criteria for 'Backland Development' set out in the development plan. It conflicts with the established pattern of development in the

area, will cause loss of amenity including loss of privacy, overlooking, noise disturbance and loss of landscape screening. It would constitute piecemeal development on an inadequate site.

The Roads & Traffic Department required the submission of an autotrack analysis to demonstrate that cars can be manoeuvred and turned within the boundaries, which was not provided.

7.0 **Assessment**

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

- The principle of the development.
- Impacts on the visual amenities of the area.
- Impacts on residential amenities.
- Appropriate Assessment.

1. Principle of the development

Having regard to the dilapidated condition of the existing house, I consider that its demolition and replacement with a new house is acceptable in principle in this Z1 zoned area, where the principle land use is residential.

The proposal also includes the provision of an additional dwelling in the rear garden of the existing house. Backland development is facilitated by the development plan, with each case being considered on its own merits. The protection of the established pattern and character of development in the area and protection of residential amenity are primary considerations.

2. Impacts on the visual amenities of the area.

The proposed replacement house would be of similar height, scale and finish as the existing house and is designed on an almost identical footprint. It would incorporate similar architectural features including a double roof and centre valley, natural slate roof covering, brickwork chimney stacks and similar window and door openings in the front elevation. The proposal would remove an existing eyesore within the

streetscape which would significantly improve the visual and residential amenities of the area and the character and setting of the ACA.

With a ridge height of 7.17m, the second dwelling would project marginally above the roof level of the replacement dwelling (6.8m) to the front. Notwithstanding the location of single storey dwellings close to the junction of Seaford Avenue/Beach Road, having regard to the recessed position of the house on the site and the screening effect provided both by replacement dwelling and existing built form, I do not consider that the proposal would cause any serious diminution in the visual amenities of the area or the character of the ACA, when viewed from the public realm.

I would point out to the Board that the alternative house design brought forward for the Board's consideration proposes a dormer type dwelling with a ridge height of 6.3m, which would be below the height of the replacement dwelling.

3. Impacts on residential amenities.

The development plan at section 16.10.2 refers to residential quality standards for houses and the requirement to comply with the '*Quality Housing for Sustainable Communities-Best Practice Guidelines*', published by the DoEHLG (2007). The level of accommodation provided in both houses satisfies the space provision and room size requirements set out in Section 5.3 of the guidance and each of the rooms will be adequately ventilated and have good access to daylight, ensuring that an adequate level of residential amenity would be afforded to future occupants.

In terms of private amenity space both of the houses fail to achieve the minimum requirement of 10 m² per bedspace. The replacement house with 8 no. double bedrooms generates a requirement of 80 m² and c.56 m² is proposed. The house to the rear proposes c. 23 m², which is well below the requirement of 40m². The alternative design submitted in support of the appeal also proposes 4 no. bed spaces with similar open space provision. The open space associated with the replacement house is directly overlooked by the house to the rear which seriously impacts on its privacy and overall quality.

There would be no windows in the side elevations of either house which would create the potential for overlooking of adjacent properties. The rear elevation of the replacement house would incorporate 4 no. large floor to ceiling height opens at first

and ground floor level. The windows are significantly larger than those being replaced and resemble patio doors, with glass balustrades. They would serve habitable rooms (kitchen and lounge) at first floor level with the potential for increased overlooking, particularly of the private rear gardens of adjoining property on Seafort Avenue. Should the Board be minded to grant permission for the development, I recommend that a condition be attached requiring that the design of the first floor opes be altered such that windows and not doors are provided and that the width of the glazed area of both opes at first floor level be reduced by one half.

The new house would incorporate windows serving a living room on the ground floor and a bedroom window and ensuite/landing window at first floor level. The separation distance between opposing first floor windows at c 12m is seriously below the recommended distance of 22m to prevent overlooking and privacy issues.

I consider that the site is too small to accommodate an additional house. The proximity and orientation of the house to the rear of existing properties has the potential to significantly impact on the quality of the amenity of the replacement house and adjoining neighbouring property arising from overlooking. It fails to achieve the minimum standards for private amenity space and it would result in a substandard form of development which is inconsistent with the established pattern of development and character of the area. It would fail to protect and improve the residential amenities of the area in accordance with the zoning objective. I do not consider that the revised house design submitted in support of the appeal addresses the issues raised.

4. 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.

7.2. Conclusion

I accept that the replacement house, which proposes to reinstate the features of the original house will complement the streetscape and the character of the ACA and is therefore acceptable. Subject to the re-use of as much of the original features as possible I have no objection to this part of the proposal. I recommend therefore that permission be granted for the replacement house.

Arising from the orientation of the new house and its proximity to both the proposed replacement house and adjacent residential properties, I consider that the potential exists for significant adverse impacts on residential amenities arising from overlooking and loss of privacy. The proposal results in inadequate open space provision for both houses and in direct overlooking of the private amenity space associated with the replacement house, which seriously compromises residential amenity for future occupants. I consider that the site is too small to accommodate an additional house. I consider that it would conflict with the zoning objective for the area and would, therefore, be contrary to the proper planning and sustainable development of the area. I recommend that permission for the new house and the alterations to the vehicular access as proposed be refused.

Note: I draw the attention of the Board to Section 14 of the Dublin City Council Development Contribution Scheme (Exemptions and Reductions) which states;

The following categories of development will be liable for a reduced rate of development contribution under the Scheme

- Where an applicant is granted permission to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be charged on the net additional floorspace created.

As noted the proposed replacement house mirrors the footprint of the existing house to be demolished. The requirement for a development contribution does not arise as there is no increase in floor area.

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 the Board issue a SPLIT decision to grant permission for the demolition of the existing house and the construction of a replacement house and to refuse permission for a new house to the rear with new vehicular entrance for the reasons and considerations set out below.

9.0 Reasons and Considerations

Reasons and Considerations (1)

Having regard to the established use on the site for residential purposes, the pattern of development in the area and the dilapidated condition of the existing house, it is considered that, subject to the conditions set out below, the proposed demolition of the existing house and its replacement with a new house would contribute positively to the residential and visual amenities of the area and the character and setting of the Sandymount Architectural Conservation Area. It is considered that the proposal would be in accordance with the Z1 zoning objective 'to protect, provide and improve residential amenities' and would, therefore, 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 on the 8th day of June 2017, 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 the development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. The first floor opes in the rear elevation shall be provided with windows and not doors and the width of the glazed area shall be reduced by one half. The

windows shall be located centrally within the area shown for each window on Drawing No. 3223/19 submitted in support of the application. Revised drawings incorporating these changes shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: To protect the residential amenities of adjoining property.

3. The original roof materials, including the natural slates, brickwork to the chimney stacks, original chimney pots and decorative terracotta ridge comb shall be retained and reused, to details to be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To retain the architectural integrity of the building and the character of the Architectural Conservation Area.

4. The existing front boundary railings and plinth wall shall be retained and protected during site development works. No alterations shall take place to existing access arrangements.

Reason: To retain architectural features that contribute to the character of the Architectural Conservation Area.

5. Water supply and drainage arrangements including the disposal of surface water shall comply with the requirements of the planning authority for such works.

Reason: In the interests of public health and to ensure a satisfactory standard of development.

6. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 hours Monday to Fridays inclusive, between 08.00 to 14.00

on Saturdays and not at all on Sundays and public holidays, Deviation from these times shall be allowed only 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.

7. Prior to commencement of development, a Construction Management Plan shall be submitted to and agreed in writing with the planning authority. The plan shall include details of intended construction practice, proposals for traffic management, noise management and measures for off-site disposal of construction/demolition waste.

Reason: In the interests of amenities, public health and safety.

Reasons and Considerations (2)

Having regard to the restricted nature of the site that forms part of the rear garden of a house proposed for replacement, the location and orientation of the development and the proximity to adjacent property, it is considered that the development of an additional house to the rear would seriously impact on the residential amenity of adjoining property by way of overlooking and loss of privacy. Furthermore, it is considered the proposed development would result in overdevelopment of the site and the inadequate provision of private open space for both the replacement house and the new house to the rear which would result in a substandard level of amenity for future occupants. The proposed development would fail to protect and improve residential amenities in accordance with the Z1 zoning objective, and would conflict with the established pattern and character of development in the area. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

Breda Gannon
Senior Inspector
27th October 2017