



An
Bord
Pleanála

Inspector's Report PL29N.249224

Development	Two-storey detached house with vehicular access off Iveragh Road and associated works
Location	Side of 194 Iveragh Road, Whitehall, Dublin 9
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3213/17
Applicant(s)	Garreth Browne
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First-Party
Appellant(s)	Garreth Browne
Observer(s)	None
Date of Site Inspection	4 th December 2017
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on Iveragh Road, a residential street off the Swords Road (R132 regional road) in Whitehall, approximately 200m south of Collins Avenue and 4km north of Dublin city centre.
- 1.2. The site is rectangular in shape and has a stated area of 450sq.m with approximately 12m frontage onto Iveragh Road. It comprises open ground that previously formed part of the side garden to No.194 Iveragh Road and it backs onto the rear garden of No.190 Iveragh Road and No.99 Swords Road. The boundaries of the site primarily comprise a mix of hedgerows and timber-panel fencing. The front boundary consists of a temporary security fence and a 2m-high wall. The foundations for a building have been constructed towards the rear half of the site.
- 1.3. The surrounding Gaeltacht Park area is characterised by rows of terraced and semi-detached dwellings of similar styles, fronting onto estate roads. A local neighbourhood centre is located to the east, at the junction of Iveragh Road and Swords Road. Ground levels in the vicinity drop gradually towards the east.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:
 - Construction of a two-storey detached four-bedroom dwellinghouse with a stated gross floor area of 193sq.m;
 - Provision of a new 3.5m-wide vehicular access with gates off Iveragh Road.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to 11 conditions, most of which are of a standard nature, but also including the following condition:
 - Condition No 3: 'The development hereby approved shall be amended as follows:

The ground floor of the proposed dwelling shall be reduced in depth by a minimum of 2 metres to the rear and a rear garden space of a minimum of 6 metres in depth shall be provided for the entire width of the site.

Development shall not commence until revised plans, drawings and particulars showing the above amendment have been submitted to, and agreed in writing by the Planning Authority.

Reason: To protect the residential amenities of the adjoining properties'.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer reflects the decision of the Planning Authority.

The Planning Officer notes the following:

- Planning permission for a house was previously refused on this site due to the inadequate provision of private open space to the rear (DCC Ref. 2602/13 refers);
- The rear garden area measures approximately 74sq.m and not 108sq.m as stated on the drawings submitted. The rear garden depth is between 5.8m and 6m;
- The minimum standards for private open space have reduced from 15sq.m to 10sq.m per bedspace under the new Development Plan and as a result the revised proposals partially overcome the previous reason for refusal;
- Depth of the rear garden remains a concern and a condition is recommended to reduce the house by at least 2m at rear ground-floor level and the rear garden depth to be a minimum of 8m for its entire width to protect amenities of adjoining properties.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - **no objection** subject to conditions;
- Roads, Streets & Traffic Department (Road Planning Division) - **no objection** subject to conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third-Party Submissions

3.4.1. None.

4.0 Planning History

4.1. Subject Site

4.1.1. There has been three other recent planning applications associated with the subject site.

- ABP Ref. PL29N.207421 – Permission **refused** (October 2004) for a pair of two-storey semi-detached dwellings with access off Iveragh Road (DCC Ref. 2023/04);

Reason for refusals related to overshadowing and loss of light to the adjoining properties and the impact of the proposals on the visual amenities of the area.

- DCC Ref. 6266/05 – Permission **granted** (March 2006) for a two-storey five-bedroom dwelling with similar footprint to the subject proposed dwelling (GFA - 194.sq.m);
- DCC Ref. 2602/13 – Permission **refused** (June 2013) for a two-storey five-bedroom dwelling with similar footprint to the subject proposed dwelling (GFA - 194.sq.m);

Reason for refusal was based on the inadequate area of private open space to the rear and the inadequate depth of the rear garden at c. 6m.

4.2. Surrounding Sites

4.2.1. Planning permission was granted for a dwellinghouse on the adjoining lands to the west:

- 192 Iveragh Road – DCC Ref. 2175/13 – Permission **granted** (May 2013) for a two-storey three-bedroom detached dwellinghouse with a vehicular access off Iveragh Road to the south;
- 190 Iveragh Road – DCC Ref. 2445/16 – Permission **granted** (June 2016) for a two-storey three-bedroom detached dwellinghouse with a vehicular access off Iveragh Road to the west.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022 with a stated objective 'to protect, provide and improve residential amenities'.
- 5.1.2. Relevant planning policies for the proposed development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Design standards for infill development are set out in Section 16.2.2.2 of the Development Plan and issues for consideration in assessing proposals for corner/side garden sites are set out in Section 16.10.9. Policy QH1 and Section 12.5.1 'A Good Urban Neighbourhood' of the Development Plan refer to standards outlined in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, amongst other national guidelines.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal has been lodged only against Condition No.3 attached to the Planning Authority decision. The following grounds of appeal are raised:
- Reducing the depth of the house would have a direct impact on the house design;
 - Proposed house design, positioning and floor area is in keeping with the area;

- The rear garden would measure 84sq.m in line with minimum Development Plan standards, and consideration should also be given for the south-orientated front garden space;
- Proposals would not overlook properties and would be in-keeping with neighbouring plot sizes;
- Floor slab has been installed on site, following a previous permission and the subject condition, No.3, restricts the layout of the proposed house.

6.1.2. The appeal is accompanied by a drawing illustrating two small ground-floor projections to the proposed house that the applicant would be willing to omit, thereby providing for 91sq.m of rear garden area and a minimum rear garden depth of 6.7m.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority response to the grounds of appeal can be summarised as follows:

- Substantive planning matters and reasons for the Planning Authority are outlined in the Planning Officer's report on the application;
- There was a typographical error in the subject Condition No.3 and the minimum depth of the rear garden should be 8m and not 6m, as previously stated in the Planning Authority notification of a decision to grant permission.

6.3. **Appellant's Response**

6.3.1. The appellant responded to the submission by the Planning Authority and raised the following:

- Precedent for a 6m rear garden depth was set under the previous permission (DCC Ref. 6266/05 refers) and the foundations for the previously permitted house have been constructed on site;
- Proposed development omits a bedroom in order to address the previous reason for refusal issued under DCC Ref. 2602/13;
- Condition would require a complete redesign of the house;
- Existing hedge to side (west) and rear would be maintained;

- Condition would not address overlooking, as the proposed house does not overlook neighbouring properties.

7.0 Assessment

7.1. This is a first-party appeal only against Condition No.3 attached to the Planning Authority's decision to grant permission. Condition No.3 requires:

- The ground floor of the proposed dwelling to be reduced in depth by a minimum of 2 metres from the rear and a rear garden space of a minimum of 6 metres in depth for the entire width of the site.

7.2. Having regard to the nature and scale of the proposed development, the absence of third-parties to the application and appeal and the nature of Condition No.3, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance, would not be warranted, and therefore the Board should determine the matters raised in the appeal only in accordance with Section 139 of the Planning & Development Act 2000, as amended.

7.2.1. The grounds of appeal assert that Condition No.3 would not address overlooking issues, is not cognisant of the existing constructed floor slab and would have an impact on the design of the proposed house, which is in keeping with similar houses in the area. The Planning Authority's reason for attaching Condition No.3 to their notification of a decision to grant permission is to protect the residential amenities of adjoining properties. In response to the grounds of appeal, the Planning Authority outline that the condition should state that the rear garden depth should be a minimum of 8m in depth for the entire width of the site, as the previous reference to a 6m depth was a typographical error. To address the condition the applicant would be required to omit those parts of the building between 6m and 8m from the rear boundary, therefore, at minimum part of the dining and living areas at ground floor and part of bedroom 4 at first floor, would need to be removed.

7.2.2. Planning permission for a house on this side garden site was originally granted by the Planning Authority in March 2006 (DCC Ref. 6266/05) and the foundations for this house have been constructed on site. The house was not constructed and the permission has since lapsed. Permission for the same house was refused by the Planning Authority in June 2013 due to the inadequate provision of private open

space to the rear and the inadequate depth of the rear garden at c. 6m (DCC Ref. 2602/13). The Development Plan states that 60 to 70sq.m of rear garden area is considered sufficient for houses in the city and the proposed development meets minimum rear garden area standards (c.84sq.m). Accordingly, the condition has only been attached to address concerns regarding the potential impact on adjoining properties, Nos. 190, 192 and 194 Iveragh Road and No.99 Swords Road.

- 7.2.3. Considering the context of the proposed house relative to the adjoining properties, I am satisfied that the condition would not address any concerns relating to overshadowing or overbearing impacts, and the only residential amenity issue requiring further assessment relates to the potential for overlooking from the rear of the proposed house. Rear garden depths in the immediate area vary considerably, with the rear gardens to Nos. 194 and 196 to the east approximately 10m deep. In relation to privacy and security, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas advise that careful positioning and detailed design can prevent overlooking even with shorter back-to-back distances. The closest proposed windows to the rear boundary would be 6m from the rear garden of No.190 Iveragh Road and No.99 Swords Road. The rear boundary with No.190 Iveragh Road and No.99 Swords Road comprises a 2m-high timber-panel fence on the appeal site side, supplemented by mature coniferous trees, shrubs and hedgerows within the adjoining properties. The appellant states that the boundary would be maintained on the appeal site. Having regard to the existing and proposed boundary treatment, I am satisfied that overlooking from the rear-facing ground-floor windows would not arise.
- 7.2.4. There are no side-facing windows towards the rear of the proposed house at first-floor level and I am satisfied that the condition would not address potential for overlooking of No.192 to the west and No.194 to the east. There would be a rear-facing bedroom window 6m from the rear boundary with No.190 Iveragh Road and No.99 Swords Road. The rear garden to No.190 is approximately 25m wide and 21m deep, albeit with permission for a dwelling occupying the northern half of the site (DCC Ref. 2445/16 refers). Furthermore, the rear garden to No.99 Swords Road is approximately 38m deep. Considering the scale of both these rear gardens, the extent of planting along the boundary with the appeal site and the separation distance from the proposed house to these neighbouring dwellings, I do not consider

that a reduction in the depth of the proposed house by 2m would be warranted, as the condition would not significantly address the potential for overlooking of neighbouring properties.

- 7.3. In conclusion, I am satisfied that Condition No.3 requiring a reduction in the depth of the proposed house and an increased depth to the rear garden would not be warranted, as sufficient provision of private open space would be provided to the rear of the proposed dwellinghouse and as the proposed house would not have an overbearing impact, would not result in excessive overshadowing and as it would not result in excessive overlooking of neighbouring properties, particularly considering the scale, planting and orientation of neighbouring rear gardens serving No.190 Iveragh Road and No.99 Swords Road and given the absence of side-facing windows at first-floor level to the rear. Attachment of Condition No.3 would not significantly address the potential for overlooking from the proposed house to adjoining properties and would have negligible impact in safeguarding the amenities of the area.

8.0 **Appropriate Assessment**

- 8.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

- 9.1. It is recommended that the Planning Authority be directed to **REMOVE** condition number 3 for the reasons and considerations hereunder.

10.0 **Reasons and Considerations**

- 10.1. Having regard to the nature and scale of the proposed development and the pattern of development in the area, it is considered that condition number 3 requiring a reduction in the depth of the proposed house and an increased depth to the rear

garden is not warranted, as the proposed development would not adversely affect the residential amenities of property in the vicinity. It is, therefore, considered that the imposition of condition number 3 is not warranted in this instance and, therefore, that the proposed development would be in accordance with the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

11th December 2017