



An
Bord
Pleanála

Inspector's Report PL06D.249329

Development	Construction of a dwelling house with associated parking, drainage, water connection, landscaping and ancillary works.
Location	Site no. 3, Saval Park, Saval Park Road, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D17A/0394
Applicant(s)	Siobhan Smyth
Type of Application	Permission
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Simona Doyle Dr. Jim and Paola Bowman
Observer(s)	No observers
Date of Site Inspection	14th December 2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site has an area of 0.0902 hectares. It is located within an existing private gated residential development known as Saval Park which is located to the south of Saval Park Road. The site forms part of a larger landholding which formerly accommodated a dwelling referred to as “Loughmoe”. Permission was previously granted for the demolition of this dwelling and for the construction of a number of large detached dwellings within the grounds. The subject site is the last remaining infill site within the development.
- 1.2. The subject site represents one of two undeveloped parcels of land within the development. Permission has recently been granted by the Board for a further detached dwelling house located to the immediate north – Planning Authority Reference D17A/0183/Appeal Reference PL06D.248572.
- 1.3. Development in the immediate vicinity of the site comprises large detached low density suburban housing. To the north of the site are a number of large detached dwellings accessed from Saval Park Road. To the east, are the two existing dwellings constructed under the parent permission for the subject site as well as a tennis court. To the west, there are further large detached dwellings accessed from Saval Park Crescent including no. 8 which immediately abuts the boundary of the site.
- 1.4. The site itself is mainly grassed and currently accommodates a detached single storey building which is in residential use as carer’s accommodation. This existing building is located to the east of the site adjacent to the existing tennis court. There is an existing hedge between the proposed dwelling and adjoining carer’s accommodation. There is an existing high stone wall and mature trees along the southern and western boundaries. There is a level difference between the site and the lands to the west.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a 4 bedroom detached dwelling with a floor area of c. 295 sq. metres. Access to the dwelling is provided via

the existing vehicular access from Saval Park. 2 no. car parking spaces are proposed.

- 2.2. The dwelling is two storeys in height with the upper floor accommodation set within a mansard roof. The height of the dwelling is 6.83 metres. The dwelling is set back 11.57 metres from the existing dwelling to the west. To the north, it is set back approximately 9.7 metres from the dwelling permitted under Reg. Ref. D17A/0183/ABP Ref. PL06D.248572. The dwelling is set back approximately 13.53 metres from the southern boundary. An area of private open space of 246 sq. metres is provided to the south of the dwelling. Materials proposed for the dwelling comprise sand and cement render finish to the walls and natural slates to the mansard roof. No fenestration has been provided on the upper floor level of the western elevation.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 To Grant Permission subject to conditions. Conditions of note include:

Condition 2: *The carers accommodation/family flat shall not be used as a separate dwelling with its own curtilage and shall not be subdivided from the curtilage of the main dwelling house permitted under this permission and shall not be let or sold as a dwelling unit independent of the main dwelling. Reason: In the interest of orderly planning and development.*

3.2. Planning Authority Reports

3.2.1. Planning Reports (20.06.2017 and 04.09.2017)

The planner's reports note the following key points:

- While the location of the proposed dwelling is generally similar to the previously refused proposal, the general height and scale has been reduced.
- The revised house design breaks up the visual mass of the building along the western elevation.

- It is not considered that the dwelling will give rise to any significant overshadowing or overlooking of adjacent property.

3.2.2. **Other Technical Reports**

Transportation Planning (07.06.2017): No objection subject to conditions.

Drainage Planning (14.06.2017): No objection subject to condition.

3.3. **Prescribed Bodies**

- No reports received.

3.4. **Third Party Observations**

3.4.1 3 no. observations were received from Simona Doyle; Dr. Jim and Paola Bowman and Dr. John Mc Hugh. Issues raised include:

- The development does not respond adequately to the previous reasons for refusal raised by the Board under appeal reference PL06D.230859. The two storey house will have a negative impact on the residential amenity of the dwellings to the west.
- Height, scale and mass of dwelling and potential impact on residential amenities of adjacent properties in terms of visual impact and potential overlooking and overshadowing.
- Accuracy of architectural plans submitted with the application particularly in terms of ridge levels.
- Impact on existing trees and boundary wall.

4.0 **Planning History**

4.1 There have been a number of applications pertaining to the site and its immediate environs. Key relevant decisions are set out below:

Subject Site:**P.A D15A/0429**

Permission was granted by Dun Laoghaire Rathdown County Council in December 2015 for a development comprising the change of use from an outbuilding to carer's accommodation. This building is located to the immediate east of the subject site.

P.A. D08A/0376/ABP Ref: PL06D.230859

Permission was sought in April 2008 for a two storey dwelling house at 3 Saval Park. Permission was refused by An Bord Pleanála in March 2009 for the following reason:

"The proposed house, by reason of its size, scale and siting, would be visually dominant when viewed from the rear gardens of the dwellings to the west and to the south of the site and would overshadow the garden of the house to the west. The proposed location of the house set behind the existing large garage serving the adjoining property and at right angles to the cul-de-sac head would appear cramped and out of character with the proportions of the surrounding development. The proposed development would, therefore, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area."

Site to the south:**P.A. D17A/0183/ABP Ref. PL06D.248572**

An Bord Pleanála granted permission in August 2017 for a two storey dwelling on the adjacent site 4, located to the north of the subject site.

P.A. Ref. D10A/0406

Permission sought in July 2010 for a dormer dwelling and was refused permission by Dun Laoghaire Rathdown County Council due to its height, scale and proximity to the northern boundary.

P.A. Ref. D99A/1098/ABP Ref: PL06D.119917

Permission was granted in January 2001 by An Bord Pleanála for a development comprising the construction of two detached two-storey dwellings and for associated site works and also to include demolition of existing house at Loughmoe, Saval Park Road, Dalkey.

Condition 3 stated:

“The proposed two storey house and tennis court on site F shall be omitted from the development. The house may be replaced by a dormer bungalow which shall be the subject of a separate application for approval.

Reason: In the interest of residential amenity.”

Site F relates to the subject site and the adjacent site to the north of the subject application permitted under– D17A/0183/ABP Ref. PL06D.248572.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative development plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The subject site is zoned Objective A: ‘To protect and/or improve residential amenity’.

Section 8.2.3.4 (vii) Infill: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”*

Section 2.1.3.4 Existing Housing Stock Densification: *“Encourage densification of the existing suburbs in order to help retain population levels - by ‘infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.*

In older residential suburbs, infill will be encouraged while still protecting the character of these areas.”

5.2. Natural Heritage Designations

5.2.1 None applicable.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows.

- The proposed development by virtue of its height and scale would seriously detract from the amenity of dwellings to the west. It will be visually dominant and cause overshadowing. Consider that a further dwelling would be over development of the site.
- The dwelling is 1800mm from the rear boundary wall with no. 8 Saval Park Crescent and due to differences in the finished floor levels, it is considered that the dwelling should be set back further from the boundary or be redesigned as a bungalow.
- It is not possible to provide a sufficiently high screening of trees along the common boundary to reduce the visual impact. Concerns raised that due to the proximity of the dwelling to existing trees that these will have to be removed to facilitate construction.
- Reference made to the previous decision to refuse permission by the Board under appeal reference PLO06D/230859, and notwithstanding the reduction in the footprint and ridge height proposed in the current application, this is not sufficient to address the previous refusal. It is also detailed that under appeal reference PL06D.119917, the Board raised concerns regarding the impact of development to the west of the site.
- It is contended that a number of the previously approved and completed dwellings on the site have not been constructed in accordance with the drawings submitted.

6.2 Applicant's Response

- In response to the request for further information issued by the Planning Authority in respect of the application, a topographical survey of the site was undertaken. The drawings, therefore, accurately show the relative finished floor levels and maximum ridge height of existing dwelling and the proposed house.

- The proposed development is entirely consistent with the development plan zoning objective. It is also in accordance with policy RES4 to densify existing built up areas.
- With reference to the planning history of the site, it is noted that these decisions were taken prior to the making of the current Dun Laoghaire Rathdown County Development Plan and the publication of the *Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*.
- The proposed development has been modified on foot of the previous refusal in relation to D08A/0376/ABP Ref. PL06D.230859 with a reduced building height and area. The height has been reduced by over 3 metres from 10 to 6.83 metres and the roof profile is now mansard as opposed to pitched. It thus will have significantly less impact. The floor area has been reduced from 394 sq. metres to 295 sq. metres. The set back from the western boundary has increased from 1.4 metres to 2.09 metres and the design, materials and massing of this elevation has been amended.
- The difference in finished floor levels between 8 Saval Park Crescent and the subject site is 0.83 metres. The shadow analysis submitted with the application demonstrates that the development will have no material impact on the adjacent garden over and above the shadows already cast by the existing wall and tree screening.
- The substantial tree screening and high boundary wall along the western boundary which will be retained will reduce visual impact. Contiguous elevations submitted indicate that the development will have no material visual impact. Raft foundations will be used to prevent root damage.
- No information submitted to substantiate the allegation of a diminution of property values. The site is zoned for residential development and it is suitable for infill development. There is a reasonable expectation therefore that it will be developed.
- Refers to a number of precedents where similar developments have been granted by Dun Laoghaire Rathdown Co. Co.

6.3 Planning Authority Response

- The Planning Authority are satisfied that the dwelling as proposed would not unduly impact on the visual or residential amenities of adjacent property.

6.2. Observations

- No observations.

7.0 Assessment

7.1 The main issues in this appeal are those raised in the grounds of appeal. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Visual impact.
- Impact on residential amenity.
- Appropriate assessment.

7.1. Visual Impact

7.2.1 The subject development comprises a two storey dwelling with the upper floor accommodation set within a mansard roof. The height of the dwelling is 6.83 metres. The proposal is the last remaining development plot within the development.

7.2.2 Under the parent permission for the site P.A. Ref. D99A/1098/ABP Ref: PL06D.119917, it was proposed to construct 3 no. dwellings. Permission was granted for 2 no. dwellings with a specific condition stating that the two storey house and tennis court on site F should be omitted and may be replaced by a dormer bungalow subject to a future separate application.

7.2.3 The applicant now proposes to provide a more intensive form of development by constructing 2 no. dwellings on the former plot F site as delineated under this permission. Permission has been granted for one dwelling on site no. 4 directly to the north under application reference D17A/0183/ABP Ref. PL06D.248572. The subject application relates to the second site. It is considered that the proposed intensification with the provision of 2 dwellings is appropriate and would make a

more effective and sustainable use of this greenfield site. Such intensification is in accordance with the development plan policy set out under Section 2.1.3.4 of the current Dun Laoghaire Rathdown County Development Plan 2016-2022.

- 7.2.4 The condition attached to the parent permission is noted. The Board clearly accepted the principle of a dwelling at this location. However, the age of the permission and changes to the policy context that have occurred in the intervening period must be considered. Guidance such as “Sustainable Residential Development in Urban Areas” generally encourages greater intensification on such sites subject to the residential amenities of existing properties being safeguarded. The wording of the condition is also noted and it is stated that “*The house may be replaced by a dormer bungalow*” (my emphasis).
- 7.2.5 In this regard, it is not considered that the condition was prescriptive that site F must only accommodate a dormer bungalow dwelling. The intent of the condition however, is clear in that it was intended that a dwelling of reduced height was appropriate on this site having regard to the proximity of other adjacent properties and the need to protect the amenities of these dwellings. It is in this context that the appropriateness of the height and scale of the proposed dwelling must be considered.
- 7.2.6 It is also noted that permission was previously refused on the subject site under P.A. D08A/0376/ABP Ref: PL06D.230859 for a two storey dwelling house. Concerns were raised by the Board that the proposed house, by reason of its size, scale and siting, would be visually dominant when viewed from the rear gardens of the dwellings to the west and to the south of the site and would overshadow the garden of the house to the west.
- 7.2.7 The current design proposal has evidently been significantly modified in order to overcome this reason for refusal in that the overall height of the dwelling has been reduced (from 10 metres to 6.83 metres); the floor area reduced from 394 sq. metres to 295 sq. metres; the roof profile and design has been altered (from pitch to mansard) and no fenestration has been provided in the upper floor of the western elevation. The design of the western elevation has also been significantly modified to break up its massing and extent, and the dwelling has been set back from the western boundary by over 2 metres.

- 7.2.8 The primary reason for refusal in the previous 2008 application relates to the potential impact of the development on properties to the west and, in particular, concerns that the dwelling would have an overbearing, overshadowing and obtrusive impact when viewed from the adjoining dwellings.
- 7.2.9 The subject dwelling is set back 11.57 metres from the nearest property (no. 8 Saval Park Crescent) to the west. Having regard to the proposed design of the dwelling, (including the roof profile and height of 6.83 metres), and its set back from these properties, it is not considered that it would have an adverse visual, overbearing or obtrusive impact.
- 7.2.10 It is also noted that the separation distance between the proposed dwelling and the existing houses to the west is greater than that which currently exists between House 1 and the dwelling to the north of between 7.8 and 11.93 metres.
- 7.2.11 There is also an existing high stone boundary wall of c. 2.2 metres in height located between the proposed dwelling and the properties to the west. This will be retained, further mitigating potential impact. Mature planting comprising Leyland Cypress trees c. 4 metres in height also exists.
- 7.2.12 Whilst the appellant's concerns that the design of the proposed development is not sufficiently modified to overcome the previous reason for refusal issue by the Board in 2008 are noted, I am satisfied that the design and elevation of the house have been substantially modified and reduced in scale. Having regard to the separation distances and existing boundary treatment, I do not consider that the proposal would have any material significant adverse visual, obtrusive or overbearing impacts.
- 7.2.13 It is noted that concerns have been raised by the observers regarding the accuracy of the drawings. There is a level difference between the subject site and the properties to the west. However, given the design of the dwelling and the existing ridge heights of adjacent properties, it is not considered this would exacerbate the potential visual impact of the development to any significant degree.

7.3 Impact on residential amenities

- 7.3.1 Concerns have also been raised by observers regarding potential overlooking and overshadowing and loss of mature trees along common boundaries.

- 7.3.2 A shadow study has been submitted by the applicant. This demonstrates that the proposed development will have no material adverse impact in terms of overshadowing to adjacent properties. It is also noted that the PA's planner's report raises no concerns regarding potential overshadowing impacts.
- 7.3.3 In terms of overlooking, having regard to the separation distance between the proposed dwelling and the existing properties to the north and west, it is considered that no significant overlooking will occur. Furthermore, no fenestration is proposed in the first floor mansard roof on the western elevation.
- 7.3.4 With regard to loss of mature trees, it is considered that having regard to the set back of the dwelling of over 2 metres from these trees and foundation construction, that no adverse impact is likely to occur. A condition can be attached to ensure a satisfactory completion of planting along the western boundary and for any plants that become seriously damaged or diseased to be replaced.

7.5 Appropriate Assessment

- 7.5.1 Having regard to the nature and scale of the proposed development, a two storey dwelling house within an established urban area, and the distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022, the planning history of the site, the pattern of development in the area and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual

amenities of the area. The proposed development would 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 as amended by the further plans and particulars submitted on the 8th day of August 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 development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. 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 surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge to the combined sewer onto the public road or to adjoining properties. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of proposed surface water disposal arrangements.

Reason: In the interest of public health and to ensure a proper standard of development.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

4. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

5. 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 development. This plan shall provide details of intended construction practice for the development, including measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, noise management measures and off-site disposal of construction/demolition waste.

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

6. a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the western boundary consisting predominantly of trees, shrubs and hedging, capable of growing to the height of 4 metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and in the interest of visual amenity.

7. 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 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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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.

Erika Casey
Senior Planning Inspector

19th December 2017