



An
Bord
Pleanála

Inspector's Report ABP-300403-17

Development	Construction of a first-floor rear extension to dwellinghouse.
Location	14 Boru Court, Swords, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17B/0225
Applicant(s)	Alex Cimahonics
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Gerard Alan Higgins.
Observer(s)	Dublin Airport Authority
Date of Site Inspection	14 th March 2018
Inspector	Patricia Calleary

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
4.0 Planning History.....	5
5.0 Policy Context.....	5
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	7
6.3. Planning Authority Response	7
6.4. Observations	7
7.0 Assessment.....	8
7.1. Introduction	8
7.2. Principle of the Development	8
7.3. Impact on Surrounding Area	8
7.4. Residential Amenity	9
7.5. Other Matters	11
8.0 Recommendation.....	12
9.0 Reasons and Considerations.....	12
10.0 Conditions	12

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.01 hectares is located within a residential development, Boru Court, south west of Swords in North County Dublin. It is accessed off Forest road, which is located east of Boru Court and connects with Swords built-up area to the north east. The site comprises a terraced house in a row of similar style terraced houses. The existing house has a stated gross floor area (GFA) of 75 sq.m. It presents as a two storey house to the front and as a single storey with dormer accommodation in the roof space to the rear. There is one rooflight to the rear.
- 1.2. To the east of the row of house which comprises No.14, there is a row of houses which present as two storey design to the front and rear. Boru Court backs onto a row of semi-detached houses to the north, within River Valley Grove. The rear building line of the houses in Boru Court and River Valley Grove are separated by a distance of c.22m.

2.0 Proposed Development

- 2.1. The proposed development would comprise a first-floor extension to the rear of the existing house. The extension would project outwards from a void space in the roof area and no increase in the footprint of the building would result. The extension would consist of a bedroom with a GFA of 12 sq.m and it would have one window looking onto the rear garden and the rear boundary wall with House No. 20 River Valley Grove. It has a flat roof design and it would be just under seven metres in height and would site at a level approximately 1.2m below the existing ridge level at the rear. No alterations are proposed to the front of the house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a decision to grant permission subject to 10 conditions, the following which is of note:

- **C10:** Evidence that internal noise levels appropriate for habitable rooms can be achieved and details of noise mitigation measures to achieve same required to be submitted.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The proposed development would not have a negative impact on the visual amenity of the area as it would be located to the rear and would not be visible from the public street.
- In the context of the previous permission for a dormer extension to the rear of the house granted under F17B/0067, the current proposal is for a first-floor extension in place of the dormer design.
- Separation distances greater than 22m would result between the first-floor window of the proposed extension and the houses to the rear.
- Whilst the development would provide for more floor area than that approved under F17A/0067, no additional loss of privacy through overlooking would occur.

3.2.2. Other Technical Reports

- Water Services – No objection subject to conditions

3.3. **Prescribed Bodies**

- Irish Water – No objection subject to conditions
- DAA – No objection subject to condition

3.4. **Third Party Submissions**

- 3.4.1. Two submissions were received from the appellant and one other third party with an address at River Valley Grove, both stating their objection to the development. Reference is made to the planning history and to Council meeting minutes (11th September 2006 in relation to amendments to the original housing scheme.
- 3.4.2. Two other submissions were received from the occupants of the immediately adjoining houses (No.s 13 and 15 Boru Court), both of which state that they are giving consent for the proposal.

4.0 Planning History

- 4.1.1. **F/3414/05** - Based on the information on the appeal file, it appears that the residential scheme containing the appeal site and House No.14 Boru Court were approved under Part 8 of the Planning and Development Regulations, 2001, as amended. In 2006, amendments to the overall scheme were approved with modifications / amendments. (Copies of the minutes are attached to the appeal).
- 4.1.2. **F17B/0067** relates to a grant of permission (2017) at No. 14 Boru Court for a first-floor extension to the rear of the existing house in a new dormer structure.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The provisions of the Fingal Development Plan 2017-2023 apply. The site lies within an area zoned 'RS' which has a stated aim to 'provide for residential development and protect and improve residential amenity'. The vision for this zoning is to 'ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.
- 5.1.2. Relevant development plan provisions include the following:
- **Extensions to Dwellings:** The need for people to extend and renovate their dwellings is recognised and acknowledged. Extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. For first floor extensions, the following factors will be considered:
 - Overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries.
 - Remaining rear private open space, and its usability.
 - External finishes and design, which shall generally match the existing.

- **Objective PM46:** Encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area.
- **Objective DMS42:** Encourage more innovative design approaches for domestic extensions.
- **Section 12.4 Design Criteria for Residential Development (Separation Distances):** A minimum standard of 22 metres separation distance between directly opposing rear first floor windows shall be observed, normally resulting in a minimum rear garden depth of 11 metres.
- **Objective DA07 (Noise)**
Strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal was received from Gerald Alan Higgins with an address at 16 River Valley Grove, which is a property located to the north east of the appeal property. The appeal includes a number of attachments and the following provides a summary of the principal issues raised in the grounds of the appeal.

- Boru Court is located on a site substantially elevated above River Valley Grove.
- At a meeting with elected members on 11th September 2006, during consideration of amendments to the original scheme, the Council recommended that the development including proposed amendments would proceed and subject to the following condition (That no alterations to the rear of House Type D would be permitted which would have the effect of overlooking properties at the rear of Type D houses).
- An application for permission under F17B/0067 was made for a rear extension and no observations were lodged as the site notice wasn't located in a position whereby it would be readily seen.

- The current proposals are similar in nature to those previously permitted and includes a rear window overlooking River Valley Grove.
- Proposed development would result in a clear and unambiguous contravention of the conditions for development at the site as was attached by the Council's elected members in 2006 and would also set an undesirable precedent for similar such development.

6.2. Applicant Response

- No response was received from the applicant in respect of the appeal.

6.3. Planning Authority Response

- Notes the planning history, including the restriction on the first-floor extensions.
- Permission was granted under F17B/0067 for a first-floor extension. Current proposals provide for a larger dormer but no increase in window size is proposed.
- No change to the separation distance to the rear boundary would occur.
- The development would not impact on the amenity of third parties any more than that permitted under F17B/0067.
- Proposed development is considered to be an appropriate form of residential extension and one which complies with the requirements of the Fingal Development Plan 2017-2023.

6.4. Observations

6.4.1. An observation was received from the Dublin Airport Authority (DAA), the contents of which are summarised below.

- Notes the proposed development is located within the Outer Airport Noise Zone of Fingal Development Plan 2017-2023.
- Refers to Objective DA07 (Strictly control inappropriate development and require noise insulation where appropriate in the Outer Noise Zone).

- Notes Condition No.10 of the Planning Authority's decision and requests that a similar condition attach in a grant of permission.

7.0 Assessment

7.1. Introduction

7.1.1. The substantive issues that arise in this appeal and which I consider in my assessment below include the following:

- Principle of the Development
- Impact on Surrounding Area
- Residential Amenity
- Appropriate Assessment

7.2. Principle of the Development

7.2.1. The need for people to extend their dwellings is recognised in the applicable Fingal Development Plan 2017-2023. Specifically, the development plan provides that extensions will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area. Objective PM46 is supportive of sensitively designed extensions to existing dwellings which do not negatively impact on the environment or on adjoining properties or area. Therefore, subject to consideration on impact on adjoining properties and the impact on the surrounding area, the principle of an extension is considered acceptable.

7.2.2. Matters which are raised concerning the commitments given by the Local Authority in advance of the original approval for Boru Court are dealt with later in my assessment under the heading 'Residential Amenity'.

7.3. Impact on Surrounding Area

7.3.1. The proposals are considered to be visually acceptable to the streetscape by virtue of the nature and scale of the extension and its position to the rear of the existing house. Accordingly, it would not be injurious to the visual amenities of the

streetscape or negatively impact on the environment or neighbouring areas and should not be refused for this reason.

7.4. Residential Amenity

- 7.4.1. The main issues which arises in the appeal concern residential amenity impacts.
- 7.4.2. Based on the information on the appeal file, it appears that the residential scheme containing the appeal site including House No.14 Boru Court was originally carried out as a Local Authority project.
- 7.4.3. The appellant submits that assurances were given at a Council meeting in September 2006 that no first-floor extension overlooking River Valley Grove would be permitted. Specifically, it is submitted that Fingal County Council elected members, in considering the proposal and manager's report, included the following recommendation with regard to the Boru Court development:
- It is recommended that the Council proceeds with the development including the proposed amendments subject to the following condition: **'That no alteration to the rear of type D houses be permitted which would have the effect of creating overlooking of properties at the rear of type D houses.'**
- 7.4.4. It appears that the scheme was approved with the recommended amendment. It is asserted by the appellants that the proposed development would contravene the approval for the Boru Court development as amended by the elected members and would set an undesirable precedent for similar such development elsewhere in Boru Court. It is stated that regarding a recent planning application for permission for an extension to the same dwellinghouse under F17B/0067 (June 2017), no observations were lodged as the site notice was not at a location where passers-by would see it.
- 7.4.5. The Planning Authority notes the planning history and considers that the current proposals provide for a larger dormer than that previously permitted under F17B/0067 but that no increase in window size is proposed and no change to the separation distance to the rear boundary would occur.

- 7.4.6. In my consideration of this issue, I firstly note that based on the public notice submitted with the current application, there is no direct relationship between the current application and that permitted under F17B/0067. The current proposals are therefore not reliant on this previous permission and should be judged on its own merits. I also note that the Board did not adjudicate on this previous application.
- 7.4.7. In considering whether or not the development now proposed would contravene the original approval of the Boru Court development, I note that as submitted by the appellants, the scheme as approved with the following amendment, 'That no alteration to the rear of type D houses be permitted **which would have the effect of creating overlooking of properties** at the rear of type D houses'. This clearly does not exclude **any** extension to the rear of the properties. Nonetheless, the considerations which are relevant to the assessment is whether or not the development would result in unacceptable residential impact on adjoining properties.
- 7.4.8. Therefore, I intend to consider the current proposal on its own merits, specifically having regard to the criteria which are required to be considered under the provisions of the Development Plan for Extensions to Dwellings. These include:
- Overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries.
 - Remaining rear private open space, and its usability.
 - External finishes and design, which shall generally match the existing.
- 7.4.9. The proposed development would be built by extending the rear wall vertically from a single storey to a two storey height. It would also involve providing habitable accommodation, a bedroom, in the void space within the existing roof while also extending above this void space. It would be formed with a flat roof design, c.7m in height with eaves level at the same level as that which presents to the front of the house. The flat roof would terminate c. 1.2m below the ridge level and would not therefore be visible to the front streetscape. The extension would include a new window at first floor level.
- 7.4.10. Given the separation distance of 22m which would remain between the rear wall of the extension and the houses along River Valley Grove to the north, this would meet the requirement of section 12.4 (Design criteria for residential development) of the

Development Plan, which requires a minimum standard of 22 metres separation distance between directly opposing rear first-floor windows to be observed. Based on my observations while on site, there is no noticeable difference in ground levels between the row of houses which includes No.14 Boru Court and the house to the rear in River Valley Grove.

7.4.11. Accordingly, the development would not give rise to any unacceptable overlooking or overshadowing of properties. Having regard to the nature and scale of the development, it could not be reasonably considered as overbearing. The size of the private open space associated with the house would remain unaltered. External finishes and design can be regulated by condition to require that they generally match the existing house. Given that the nature and scale of the proposal, no planning issues arise regarding mutual boundaries along neighbouring houses in Boru Court. In addition, I note that the immediate neighbouring properties submitted observations stating that they are giving consent to the development.

7.4.12. In conclusion, I am satisfied that the proposed development would result in an appropriate form of residential extension, as it would be in compliance with the requirements for extensions and separation distances as set out in the development plan for the area, would not result in unacceptable residential amenity impacts on adjoining properties and would therefore be in accordance with the proper planning and sustainable development of the area.

7.5. Other Matters

7.5.1. Outer Airport noise zone

- The development is located within the outer noise zone associated with Dublin airport. DAA have commented on the application, referring to objective DA07 and have requested that an appropriate condition would be attached in relation to noise control appropriate to the outer noise zone. In this regard, I recommend that a condition similar to Condition No.10 of the planning decision is attached to any grant of permission.

7.5.2. Appropriate Assessment

- Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area, 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.

8.0 Recommendation

8.1. I recommend that permission is **granted** for the reasons and considerations set out below and subject to the conditions attached.

9.0 Reasons and Considerations

9.1.1. The need for people to extend their dwellings where such extensions do not have a negative impact on adjoining properties or on the nature of the surrounding area is recognised in the Fingal Development Plan 2017-2023 (Extensions to Dwellings). Objective PM46 also encourages sensitively designed extensions to existing dwellings, which do not negatively impact on the environment or on adjoining properties or area. It is considered that having regard to the nature, scale and design of the extension development and that a separation distance of 22m between opposing first-floor windows would be observed, the proposed development would not result in any unacceptable impact on adjoining properties or on the nature of the surrounding area. Accordingly, the proposed development would constitute an appropriate form of residential extension which would be in compliance with the requirements for extensions and separation distances as set out in the development plan for the area 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 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 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. The external finishes of the proposed extension shall harmonise with those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

3. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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 property in the vicinity.

4. Evidence that internal noise levels appropriate for habitable rooms can be achieved and maintained and full details of noise mitigation measures to achieve same shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Reason: To control development and require noise insulation where appropriate within the outer noise zone attached to Dublin airport.

Patricia Calleary
Senior Planning Inspector

20th March 2018