



An
Bord
Pleanála

Inspector's Report ABP-300448-17

Development Modifications to previously approved residential development permission (reference no.: 2008/17) as follows:(1) Addition of a partial basement area (49 sq.m) to approved new house at 11a; (2) Addition of attic windows to front of existing and new house (11 and 11a).

Location 11, Villa Park Road, (on corner with Villa Park Gardens),
Navan Road, Dublin 7

Planning Authority Dublin City Council

Planning Authority Reg. Ref. 3059/17

Applicant(s) Donal Tuttle

Type of Application Permission

Planning Authority Decision GRANT with conditions

Type of Appeal Third Party

Appellant(s) Jacinta Clarke and Martina Kennedy.

Observer(s) Martina Kennedy

Date of Site Inspection 18/04/18

Inspector John Desmond

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	8
6.3. Planning Authority Response	8
6.4. Observations	8
7.0 Assessment.....	9
7.1. Policy / principle	9
7.2. Visual impact / character	9
7.3. Impact on neighbouring amenities	10
7.4. Structural impact	10
7.5. Flood risk.....	10
7.6. Other issues.....	11

7.7. Appropriate Assessment 11

8.0 Recommendation..... 11

9.0 Reasons and Considerations..... 11

10.0 Conditions 13

1.0 Site Location and Description

1.1. The application site is located in northwest Dublin City, c.60m north of Phoenix Park, in a mature suburban residential area between Blackhorse Avenue to the south and Navan Road to the north, dating most probably from the 1960's. The suburban housing is set out in short terraces. The site relates to a 2-storey end-of-terrace suburban dwellinghouse situated on a corner site of 588-sq.m stated area. The site is bounded by the public road to the front (eastern) and northern side, and by a service lane to the rear. The gross floor area of the existing dwelling measures c.105-sq.m. Vehicular access is to the rear via the northern side boundary, with pedestrian access only to the front.

2.0 Proposed Development

2.1. It is proposed to modify the existing permission, reg.ref.2008//17, for an additional dwelling, with the provision of:

- (a) additional basement (49-sq.m) to approved new house (11a) and;
- (b) addition of attic windows to front of existing and new house (11 and 11a).

3.0 Planning Authority Decision

3.1. Decision

GRANT permission subject to 9no. conditions. Condition no.3 is a non-standard condition requiring details of means of escape from basement level to external ground floor level to be submitted for agreement.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first report of the Planning Officer (20/07/17) is consistent with the decision of the Authority to seek further information on the issues of flood risk assessment, structural stability issues and visual impact of proposed roof windows.

The second report of the Planning Officer (15/11/17) considered the applicant's further information submission to adequately address the Council's concerns and is consistent with the decision of the Authority to grant permission subject to 9no. conditions.

3.2.2. Other Technical Reports

Road Planning Division (12/07/17) – No objection subject to standard conditions.

Drainage Division (29/06/17) – Recommended that further information be sought concerning inadequate drainage details and floor risk assessment.

3.3. Prescribed Bodies

Irish Water – No report submitted.

3.4. Third Party Observations

21no. letters of observation were received from Brian and Jacinta Clarke, Lucy O'Mahoney, Martina Kennedy, Tom Byrne, Thomas Healy, Róisín Farren, Brian Redmond, Liz Clarke, Councillor Cieran Perry, Navan Road Community Council (c/o Sinead Owens), Elizabeth Redmond, Cormac Redmond, Sinead Byrne and others, Mary Naughton, Patrick and Mary Hayes, Lynne McSherry, John Mullen, Eoghan Nolan, S. Gilligan, Brian & Angela Heffernan and Maureen Clarke. The issues raised are repeated in the grounds of appeal and are summarised in the appropriate section below. Additional points raised related as follows:

- Speculative development.
- Basement should be prohibited for habitable use.
- Contravenes s.11 of Appendix 25 of the CDP.
- Attic rooms contravene existing fire regulations.

4.0 Planning History

On site:

Reg.ref.2008/17 – Permission **GRANTED** (10/05/17) by the Planning Authority for modifications to previously approved residential development permission

(reg.ref.2536/15) to provide an enlarged attached dwelling (no.11a), off street parking space to be provided to the front of each house and omitting approved new vehicular entrance to rear of no. 11, plus new 59-sq.m extension to rear of house no.11 including dormer element at attic level. Condition no.4 stipulated that the flat roof dormer window be reduced in width as measured externally from 6.074m to 3m maximum and be located a minimum of 1m off the boundary with no. 9 Villa Park Road in the interests of visual and residential amenity

Reg.ref.2536/15 - Permission **GRANTED** (27/05/15) by the Planning Authority for 2-storey 3-bedroom detached dwelling (no.11a) to the side of the existing dwelling including 5 roof windows, new gated pedestrian entrance off Villa Park Gardens, new rear wall and gated vehicular entrance to provide an off street car parking space for the existing house (no.11), new front and rear boundary walls for the site of the proposed dwelling and an increase in the height of the existing boundary wall along Villa Park Gardens, hard and soft landscaping and all associated site works.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

Land use zoning objective Z1 to protect, provide and improve residential amenities.

Section 16.2 Design principles and standards.

Section 16.10.12 Extensions and Alterations to Dwellings.

Section 16.10.15 Basements.

Appendix 17 Guidance for Residential Extensions.

5.2. Natural Heritage Designations

None relevant within the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the third-party appeal submitted by Jacinta Clarke (no.9) and Martina Kennedy (no.7 Villa Park Road) may be summarised as follows:

- Risk of structural damage to neighbouring dwellings and to structures in Phoenix Park due to subsidence and vibration arising from basement construction.
- Will invalidate the neighbours deeds which refer to the house as part of a terrace of 4 dwellings.
- Site notices incorrect in describing 2-storey rear extension to no.11 simply as an extension and proposed house as 2-storey house when it is 3-storeys. Planning authority negligent
- Visual impact.
- OSI maps don't record more recent developments in this area and are misleading.
- Overlooking
- Use of attic level for habitable accommodation.
- Flood risk arising from construction of basement in area with high water table and underground streams and springs. The FRA is incorrect and misleading in its assertion that no flooding has occurred in the area except at Glendhu Park, on the other side of the Canal as is documented in Dail debates by Mary Lou MacDonald TD, and was not supported by onsite investigations.
- Impact on water pressure having regard to recent residential development in area.
- Visual impact of dormer and roof windows and roofscape; precedent and potential cumulative impact on streetscape; front roof windows unnecessary as large dormer already permitted to rear.
- Proposed side wall is of excessive height and out of character.

- Hours of construction should be restricted to 8am on weekdays and 9am on Saturday, with normal finish time.
- Condition of long certification should be put on building with independent certificatory to oversee certification process.

6.2. Applicant Response

None

6.3. Planning Authority Response

None

6.4. Observations

A letter of observation was received from Martina Kennedy (no.7 Villa Park Road), the main points of which may be summarised as follows:

- Concerns raised about site notice not being significantly reworded for different applications on this site, or being removed and replaced on invalidation of application, or relocated on site between applications, and not mentioning proposed underpinning works and is materially incorrect.
- Works being carried out on site prior to issuing of commencement notice dated 4/01/18.
- It is a 4-storey house.
- Traffic impact and parking.
- Bedroom window will open onto a brick wall – bad planning.
- Front of house has been changed (loss of window cills) and front walls removed without permission, demolition of sheds with asbestos roofing, removal of large section of upper gable wall not mentioned in plans. Will builder have to restore building if appeal upheld?

7.0 Assessment

The main issues arising in this case may be addressed under the following headings:

- 7.1 Policy / principle
- 7.2 Visual impact / character
- 7.3 Impact on neighbouring amenities
- 7.4 Structural impact
- 7.5 Flood risk
- 7.6 Other issues
- 7.7 Appropriate Assessment

7.1. Policy / principle

- 7.1.1. The principle of extending the existing dwelling, including the provision of roof dormers to the rear, and the development of an additional attached dwelling to the side on this corner site, which is zone Z1 '*to protect, provide and improve residential amenities*' has been established under previous grants of planning permission (reg.ref.2008/17 amending reg.ref.2536/15, see above) which are still extant and there is no reason to revisit the principle of the development.

7.2. Visual impact / character

- 7.2.1. The proposed modifications, comprising 2no. small, triangular attic dormer windows to the front roof slope, will have minimal visual impact on the streetscape within the context of the previously permitted developments. The applicant replaced the dormer window with rooflights in response to the Planning Authority's request for further information and has made no submission to the appeal requesting the Board to consider the dormers initially proposed. The proposed rooflights will not have any significant visual impact. The proposed basement room of c.49-sq.m will not have any significant visual impact.

7.3. Impact on neighbouring amenities

- 7.3.1. The proposed modifications to the permitted development will not materially increase the impact of the permitted development on the residential amenities of property in the vicinity in terms of overlooking, overshadowing or visual intrusion.

7.4. Structural impact

- 7.4.1. Third parties have raised concern about the potential impact on the structural stability of their homes from construction of the proposed basement level. In response to the Authority's further information request, the applicant submitted a Risk Assessment Report for Proposed Domestic Basement Construction. It acknowledged the potential risk to undermining the existing dwelling, no.11, and the consequential risk to any dwellings attached thereto, and also the risk to undermining the public footpath to the north of the basement. Mitigation measures (with sketch drawings) proposed to reduce the potential risk are detailed in the said report and appear adequate.

7.5. Flood risk

- 7.5.1. The issue of flood risk was raised by third parties and by the Council's Drainage Division. In response to the Authority's request for further information the applicant submitted a Flood Risk Assessment. The report concluded that the site is at low to medium risk from pluvial flooding which affects the local area, with possible contribution from local sewers mainly from incapacity of sewers to accommodate pluvial flood waters. As the capacity shortfalls in the local drainage system are unlikely to be resolved for some time, the applicant proposed to amend the design to avoid the habitable areas of the development from being flooded and to avoid the development contributing to flooding.
- 7.5.2. The proposed mitigation measures, comprising keeping proposed ground floor level to that of the existing dwelling and completely tanking the proposed basement level, in addition to treating, disposing and storing of surface waters generated within the site from the 30 and 100-year storm events through use of SuDS limiting outflow to 2L/s. Whilst the Drainage Department issued no report subsequent to receipt of the

FRA, the mitigation proposals appear reasonable, particularly in the context of the site being zoned for such development and located within the built-up area of Dublin.

- 7.5.3. On the basis of s.16.10.15 Basements, in the City Development Plan, the Planning Officer considered it necessary to attach a condition (no.3 refers) requiring provision of an external escape from the basement. The aforementioned section states *'Basements should be provided with a means of escape allowing access to a place of safety that provides access to the external ground level.* I am satisfied that the application drawings comply with this requirement and that condition no.3 is unnecessary, particular in view of the obligation to comply with relevant Building Regulations.

7.6. Other issues

- 7.6.1. The Planning Authority attached a contribution condition (no.2) for the sum of €777.60, based on a rate of €86.40 per square metre for the 49-sq.m development but with allowance for exemption of 40-sq.m for first extension to a residential development. The applicant has not appealed the condition.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the relatively small-scale nature of the proposed development located within the existing built up area, it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly, individually or in combination with other plans or projects on any European site. I consider no Appropriate Assessment issues to arise.

8.0 Recommendation

- 8.1. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0.

9.0 Reasons and Considerations

Having regard to the nature and scale of development proposed and the surrounding existing development, it is considered that proposed development would not

seriously injure the amenities of property in the vicinity, would be consistent with the zoning objective pertaining to the site, Z1 '*to protect, provide and improve residential amenities*' and would be in accordance with the proper planning and sustainable development of the area, subject to compliance with conditions set out under section 10.0

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 further information submitted 24th October 2017, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Apart from the modifications permitted on foot of this decision, the development shall otherwise be carried out in accordance with the terms and conditions of Planning Permission reg.ref.2008/17 amending Planning Permission reg.ref.2536/15.

Reason: In the interest of clarity.

3. All proposed flood risk mitigation measures detailed in the Flood Risk Assessment Report prepared by Tygro Consulting Engineers Ltd, submitted as further information, shall be implemented in full.

Reason: To address flood risk arising from and / or in the development.

4. 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.

Reason: In the interest of public health.

5. The developer shall pay to the planning authority a financial contribution of €777 (seven hundred and seventy-seven euro) 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 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. The application of any indexation required by this condition 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.

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.

John Desmond
Senior Planning Inspector

18th April 2018