



An
Bord
Pleanála

Inspector's Report ABP300518-17

Development	Development consisting of a new 2-storey, 2-bed detached dwelling with new vehicular entrance and driveway.
Location	Site to the rear of No. 38 and 40 Rathdown Park, Terenure, Dublin 6W.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3950/17.
Applicant	Thomas A. Menton.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Thomas A. Menton.
Observers	(i) Terenure Residents Association (ii) Lorcan Lyons (iii) Ursula and Tony Duffy
Date of Site Inspection	27 th March, 2018.
Inspector	Paul Caprani.

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1.0 Introduction

ABP300518-17 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse planning permission for a development comprising of a new two-storey, two-bedroomed detached dwelling with a new vehicular entrance to the rear of No. 38 and No. 40 Rathdown Park, Terenure, Dublin 6W. Dublin City Council refused planning permission for a single reason which made reference to the restricted size of the site to accommodate the development and that the proposal would seriously injure the visual character and architectural coherence of the area. A number of observations were also submitted supporting the decision of the Planning Authority.

2.0 Site Location and Description

- 2.1. The subject site is located in the south-western environs of Terenure Village approximately half a kilometre from the village and approximately 5 kilometres south of Dublin City Centre. Rathdown Park is an established suburban area comprising of semi-detached dwellings on relatively large residential plots. The area of Rathdown Park, Rathdown Crescent and Rathdown Avenue date from the inter-war period (1920 – 1940) and comprise of two-storey houses finished in brick timber and dashed render.
- 2.2. The subject site comprises of part of the rear gardens of Nos. 38 and 40 Rathdown Park. Nos. 38 and 40 faces northwards onto Rathdown Park. The proposed dwelling is to be located adjacent to No. 36 Rathdown Park a dwelling which is located contiguous to the rear boundary of Nos. 38 and 40 Rathdown Park. The proposed dwelling is to face eastwards onto a cul-de-sac road (also known as Rathdown Park) which runs southwards. A small shed which is located in the rear garden of No. 38, the corner site to the north of the subject site is to be demolished as part of the proposed development. Currently the rear garden lengths of Nos. 38 and 40 are c.22 metres in length. Under the current proposal it is proposed to reduce the site lane to c.11 metres.

2.3. The site itself has a total site area of 331 square metres. It is approximately 12 metres in width and at 28 metres in length.

3.0 Proposed Development

Planning permission is sought for a semi-detached dwellinghouse on the subject site. It is proposed to construct a two-storey dwellinghouse rising to a ridge height of just less than 8.8 metres. It is proposed to incorporate a hipped roof profile reflective of existing dwellings in the area. It is also proposed to incorporate a projecting A-shaped element on the southern part of the front elevation in order to reflect the design of similar dwellings in the area. A circular shaped projecting bay windows at ground and first floor level are also proposed so as to be in keeping with design elements of houses in the vicinity. The dwelling is to accommodate living and kitchen and dining accommodation at ground floor level as well as a study. Two bedrooms are proposed at first floor level both of which are located to the front of the house facing onto the public road. It is proposed to provide an en-suite bathroom, main bathroom and store to the rear of the dwellinghouse at first floor level. Frosted glass will be incorporated within the windows serving these rooms facing onto the rear garden. The dwellinghouse has a gross floor area of 145 square metres. 1.2 metre wide side passageways are located on either side of the dwellinghouse. The building line is reflective of the building line of the houses to the south of the site (Nos. 32 to 36 and the proposed dwelling has a rear garden area of 95 square metres and a rear garden depth of between 7.6 and 8.9 square metres).

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Dublin City Council refused planning permission for a single reason which is set out in full below.
- 4.1.2. The site of the proposed development is located within a designated residential conservation area, to which zoning objective Z2 of the Dublin City Development Plan 2016 – 2022 “to protect and/or improve the amenities of residential conservation areas” applies. Having regard to the restricted size of the site it is considered that the

proposed development would seriously injure the visual character and architectural coherence of this residential conservation area, would seriously injure the amenities of property in the vicinity and would be contrary to the said zoning objective of the development plan. The proposed development would, therefore, by itself and the precedent it would set for a further similar development in the area, be contrary to the proper planning and sustainable development of the area.

4.2. Planning Authority Assessment of the Application

- 4.2.1. The application was lodged with the Planning Authority on 29th September, 2017.
- 4.2.2. A report from the Engineering Department stated that there is no objection to the proposed development subject to standard conditions.
- 4.2.3. A report from the Roads and Traffic Planning Division notes that the proposed development which incorporates a new vehicular entrance would necessitate the removal of pay and display parking and this issue is of concern. The applicant should also consider the option of locating the vehicular entrance closer to No. 36 in order to minimise the impact of pay and display parking. It is recommended that additional information is requested in this regard.
- 4.2.4. A large number of third party observations were submitted objecting to the proposed development raising concerns in relation to visual impact, impact on residential amenity, inappropriate density and the undesirable precedent which a grant of planning permission would create.
- 4.2.5. The planner's report sets out details of the proposed development and the planning history associated with the site. It also details the observations objecting to the proposal contained on file. The report notes that the site is located in an area governed by the zoning objective Z2 – residential conservation area. The report concludes that the Planning Authority does not consider that the reason for refusal under the previous planning application for a similar development PL29S.236567 has been overcome in the case of the proposed development. It was also considered that the proposal does not comply with Policy CHC4 which seeks to ensure that development in residential conservation areas takes opportunities to enhance the character and appearance of the area and its setting. In this regard it is noted that the relative uniformity of the size of the plots and the established landscaping in both

the gardens and the public realm are important elements of the character of this residential conservation area. The proposal would also result in a lack of symmetry of the semi-detached houses that characterise the vicinity and would also reduce the rear curtilage of Nos. 38 and 40 Rathdown Park. The house would appear as a discordant and jarring element in an otherwise coherent and harmonious streetscape. It is therefore considered that planning permission should be refused for the proposed development.

5.0 Planning History

- 5.1. One history file is attached under PL29S.236567. Dublin City Council issued notification to refuse planning permission for a dwellinghouse on the subject site. The decision was the subject of a first party appeal and the Board upheld the decision of the Planning Authority on the recommendation of its inspector based on the following reasons and considerations.
- 5.2. The site of the proposed development is located within a designated residential conservation area to which zoning objective Z2 of the Dublin City Development Plan 2005 – 2011 “to protect and improve the amenities of residential conservation areas” applies. Having regard to the restricted size of the site it is considered that the proposed development would seriously injure the visual character and architectural coherence of this residential conservation area and would be contrary to the said zoning objective of the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. This decision was dated 19th August, 2010.
- 5.3. The planner’s report also makes reference to Reg. Ref. 4878/08 where a decision of Dublin City Council to grant planning permission for a two-storey three-bedroom detached house to the rear of Nos. 38 and 40 Rathdown Park was refused at appeal stage by An Bord Pleanála for two reasons relating to the impact of the proposed development on residential conservation area and that the proposed dwellinghouse be visually overbearing and would unduly overlook adjoining residential property. Details of this application are not contained on file.
- 5.4. A social housing exemption certificate in respect of the current application is contained in a pouch to the rear of the file.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council to issue notification to refuse planning permission was the subject of a first party appeal on behalf of the applicant by John Spain and Associates. The grounds of appeal are set out below.
- 6.2. The grounds of appeal set out the site location and description and also a description of the proposed dwellinghouse to be erected on site. The appeal goes on to set out the planning history. It notes that in the case of the current application and the refusal issued by the Planning Authority reference is made to “injure the amenities of property in the vicinity”. It is noted however that there is no reference in the planning officer’s report as to any specific impacts upon residential amenity. For this reason, it is suggested that the concerns highlighted relate only to the impacts on the visual character and architectural coherence of the residential conservation area.
- 6.3. Reference is made to 29S.248289 where permission was granted by An Bord Pleanála for an infill development at Templeogue Road east of No. 35 Rathdown Park, Terenure. This site was also governed by the Z2 zoning objective.
- 6.4. The grounds of appeal go on to set out the planning policy context and highlights various national policy statements which seek to ensure more compact growth of urban areas with increased density through infill schemes. Reference is made to the draft National Planning Framework which requires at least half of new homes within Ireland’s cities to be provided within the current built up area. It is also suggested that the proposal is fully in accordance with statements on density contained in
- The Regional Planning Guidelines for the Greater Dublin Area 2010 – 2022.
 - The Guidelines for Authorities on Sustainable Residential Development in Urban Areas (2009) and the Core Strategy set out in the Dublin City Development Plan.
- 6.5. The proposal also complies with the development standards set out in the grounds of appeal and in this regard reference is made to plot ratio, site coverage, open space provision, design and policies in relation to infill housing. It is concluded therefore that the proposal fully complies with the planning policy framework at national, regional and local level.

6.6. The grounds of appeal go on to argue that the development will not injure the visual character or architectural coherence of this residential conservation area. The appellant is happy for An Bord Pleanála to attach any conditions deemed to be appropriate in terms of materials to be used, landscaping, boundary treatment etc. The applicant is also happy for the Board to include any conditions in relation to construction management, noise, dust etc., in order to reduce the impact on residential amenities of the area. Given that Dublin is experiencing a shortage of housing at present it is considered that additional weight should be given to the benefits of delivering quality housing in a sustainable location.

In assessing the proposal, the Board are also asked to consider a slightly revised layout which moves the building slightly forward of the building line of No. 36 (drawings attached). It is contended that this modification would reduce the visual impact of the proposal when seen from the rear garden of No. 36 Rathdown Park. It may be seen as an appropriate “stepping up” of the building line between the front façade of No. 36 and the east façade of No. 38 to the north.

6.7. **Appeal Responses**

Dublin City Council did not issue a response to the grounds of appeal.

7.0 **Observations**

7.1. A total of three observations were submitted all of which support the decision of the Planning Authority. The observations were submitted by:

- Terenure Residents Association.
- Lorcan Lyons.
- Tony and Ursula Duffy.

7.2. The following issues were raised in the grounds of appeal. The issues raised in the grounds of appeal are as follows:

The proposal is out of character with the zoning of the area and does not reflect the historic architecture of the houses. The introduction of a relatively small house and the reduction in the size of the gardens would diminish the overall character of the area.

The proposal would set an undesirable precedent with small substandard gardens. Reference to a grant of planning permission for an additional dwellinghouse at No. 25 Rathdown Park is not relevant as No. 35 is in a more peripheral location.

Previous applications were refused which are almost identical to the current application.

Architecturally the houses in question are of historic significance as they record a period of time when people were moving out of the city to the suburbs. They form a transitional style between the more elaborate Victorian/Edwardian period and the emerging modern style.

The proposal will not integrate well as it will result in an inappropriate density, will result in overlooking and invasion of privacy. It is argued that the fenestration is out of character with the established dwellings in the area and would result in the proposal being visually overbearing.

The design is not appropriate on the grounds that the dwelling occupies a smaller footprint, would be narrower and out of context with existing elevations and the roof profile would be out of kilter with existing adjoining roofs. The proposal would thus constitute an overdevelopment of the site and would devalue adjoining property.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The subject site is governed by the zoning objective Z2 which seeks to protect and improve the amenities of residential conservation areas. It states that residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals both protected and non-protected. The principle land use and residential conservation areas is housing but can include a limited range of other uses.
- 8.2. Policy CHC4 seeks to protect the special interest and character of all Dublin conservation areas. Development within or affecting conservation areas must contribute positively to its character and distinctiveness and take opportunities to

protect and enhance the character and appearance of the area and its setting wherever possible. Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area and its setting.
2. The reinstatement of missing architectural detail or other important features.
3. Improvement of open space in wider public realm and the reinstatement of historic routes and character plot patterns.
4. Contemporary architecture of exceptional design quality which is in harmony with the conservation area.
5. The repair and retention of shop and _____ of architectural interest.

8.3. Development will not:

1. Harm building space, original street patterns or other features which contribute positively to the special interest of the conservation area.
2. Involve the loss of traditional, historic or important building forms, features and details including roofscapes, shopfronts, stores, windows and other decorative detail.
3. Introduce design details and materials such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors.
4. Harm the setting of a conservation area.
5. Constitute a visual, obtrusive or dominant form.

8.4. Section 16.10.10 relates to infill housing. It states having regard to the policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the Planning Authority will allow for the development of infill housing on appropriate sites. In general infill housing should comply with all relevant development plan standards for residential development; however, in certain limited circumstances the Planning Authority may relax normal planning standards in the interest of ensuring that vacant derelict and underutilised land in the inner and outer city is developed.

8.5. Infill housing should:

- Have regard to the existing character of the street by paying attention to established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room standards.
- Have a safe means of access to and egress from the site which has not resulted in the creation of a traffic hazard.

9.0 Planning Assessment

I have read the entire contents of the file, have had particular regard to the planning history associated with the site, the grounds of the first party appeal and the observations submitted in support of the decision of the Planning Authority. I have also visited the site in question. I consider the critical issues in determining the current application and appeal are as follows:

- Land Use Zoning Provisions.
- Material Changes since the Board's Previous Decision.
- Compliance with Development Management Standards.
- Appropriate Assessment.

9.1. Land Use Zoning Provisions

9.1.1. The subject site is located in an area designated with a Z2 zoning objective.

9.1.2. While residential development is a permitted use under the Z2 zoning objective the development plan is very clear in stating that any development within such areas requires special care to ensure that any proposal enhances the area and does not have any negative impact on the amenity or architectural quality of the area. The current application in my view endeavours to replicate the existing external characteristics and material finishes of existing houses at Rathdown Park. Notwithstanding this point what is proposed in this instance is a detached dwellinghouse in an area where the prevailing character comprises of semi-detached dwellings. In particular, the roof form would be incongruous and at odds with surrounding roof profiles of the area. As pointed out in the previous inspector's report

(PL29S.236567) the relatively low density of development and the size of individual plots contribute to the character of this residential conservation area. I do however acknowledge that there has been a somewhat material change in emphasis in recent national, regional and local planning policy which seeks to increase density within settlements through infill schemes. The Board however need to be mindful of the fact that infill development such as that proposed under the current application will not significantly increase housing stock within urban areas and could have a more profound adverse consequential impact in terms of adversely affecting the residential conservation area and established character of the original layout. While I acknowledge that greater emphasis must be placed on appropriate infill development within existing built-up areas I consider that such emphasis should be placed on larger infill sites in less sensitive areas which may provide opportunities to provide smaller schemes containing multiple units. And these developments would be more suitable to lands zoned Z1 which would have a lesser negative impact on the architectural quality of the area.

- 9.1.3. While it is acknowledged that greater emphasis has to be placed on facilitating more infill development within existing built-up areas this in my view cannot be at the expense of impacting upon the established character of residential conservation areas.

9.2. **Material Changes since the Board's Previous Decision**

While there is a greater emphasis in providing development at higher densities within built-up areas contained in more recent planning guidance since the previous decision by the Board in 2010 the Board nevertheless considered that the proposed development would seriously injure the visual character and architectural coherence of the residential conservation area in question under PL29S.236567. I refer the Board to the drawings of the previous application for a dwellinghouse on the subject site which was refused by the Board. With the exception of the roof profile for a half hipped gable room under the original application is transformed to a hipped roof under the current application. There are no material changes to the front elevation of the dwellinghouse. The overall height of the dwellinghouse has been reduced by 50 millimetres while the small return to the rear at ground floor level has been omitted. Some alterations have also been incorporated into the fenestration arrangements to the side and rear of the dwelling. The gross floor area of the dwelling has also been

reduced by c.14 square metres. Overall however I consider the changes proposed under the current application are not significant or material so as to warrant or justify a change in the previous decision relating to the site. I also note that there have been no significant or material changes stipulated for the Z2 zoning objective in the previous and current development plan. Based on this conclusion I do not consider that there are any material changes in circumstances either in the policy guidance documents or the layout and design of the current dwellinghouse which would justify a reversal of An Bord Pleanála's previous decision under PL29S.236567.

9.3. Compliance with Development Management Standards

I am satisfied that the proposed development complies with development plan standards in relation to plot ratio, site coverage, open space provision etc. However, such compliance does to override the fact that the proposal is not substantially different from that refused by the Board under PL29S.236567. Therefore, the fact that the proposal in this instance complies with development management standards would not in my view justify a reversal in the Board's decision.

10.0 Conclusions and Recommendation

10.1. Arising from my assessment above therefore I consider that there have been no material changes in the case of the current proposal which would warrant or justify a reversal of the Board's decision under PL29S.236567. The proposed development which is the subject of the current appeal would in my view have a similar impact to that refused under PL29S.236567 on a residential conservation area and I therefore recommend that planning permission be refused for the reasons set out below.

11.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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.

12.0 Decision

Refuse planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

13.0 Reasons and Considerations

The site of the proposed development is located within a designated residential conservation area to which the zoning objective Z2 of the Dublin City Development Plan 2016 – 2022 applies. Having regard to the restricted size of the site it is considered that the proposed development would seriously injure the visual character and architectural coherence of this residential conservation area and would be contrary to the said zoning objective set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

6th April, 2018.