



An
Bord
Pleanála

Inspector's Report ABP-300903-18

Development	Demolish garage to rear and erect house.
Location	2B, Rathvale Park, Ayrfield, Dublin 13
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4249/17
Applicant(s)	Gerard O'Keefe
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Nicholas Pym and Rebecca Purcell
Observer(s)	None
Date of Site Inspection	2 nd May
Inspector	Una O'Neill

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.2. Dublin City Development Plan 2016-2022	5
5.3. Natural Heritage Designations	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	6
6.3. Planning Authority Response	7
6.4. Observations	7
6.5. Further Responses.....	7
7.0 Assessment.....	7
8.0 Recommendation.....	10
9.0 Reasons and Considerations.....	11
10.0 Conditions	11

1.0 Site Location and Description

- 1.1. The subject site is located on the eastern side of Rathvale Drive, in proximity to the junction with Tonlegee Road and with Rathvale Park, in a well-established residential area in the north Dublin suburbs of Coolock.
- 1.2. The site, which has a stated area of 140.9sqm, comprises a detached garage/shed structure with a rear open yard in what was originally the rear garden area of no. 2 Rathvale Drive. The site is effectively carved out of part of what was originally the side/rear garden of no. 2 Rathvale Park. A house was built in the side garden of no. 2, extending the terrace, which was subsequently subdivided into two houses, resulting in no. 2A and no. 2B. The site is bounded to the south by nos. 93A and 93 Tonlegee Road, to the east by the rear garden of No. 4 Rathvale Park, and to the north by the rear gardens of Nos. 2, 2A, and 2B Rathvale Park.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of a single storey one bed detached dwelling.
 - The stated floor area of the new build is 53 sqm.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to 12 conditions, including the following:

C2: S.48 development contribution

C4: Removal of exempt development provisions

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority.

3.2.2. **Other Technical Reports**

Road and Traffic Division: No objection, subject to conditions.

Drainage Division: No objection, subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

A number of third party observations were submitted to the planning authority. Concerns raised included negative impact on residential amenity of properties bounding the site and creation of a traffic hazard given the potential of traffic parking on this street, which serves a significant number of houses and a school.

4.0 **Planning History**

On the Subject Site:

PL29N.246277: Permission REFUSED for a bungalow in 2016 for the following reason:

It is an objective of the Dublin City Development Plan that residential developments be provided with an appropriate level of private open space. To this end, the previously permitted scheme under planning register reference number 2760/06 showed a reallocation of rear garden space between numbers 2 and 2A Rathvale Park and the subject site such that 2A would be allocated part of the garden of number 2, Rathvale Park and number 2 would be allocated the entirety of the rear (east) portion of the subject site. The proposed development would ensure that this layout, which has not been carried out to date, could not be carried out in the future, as per the terms of the permitted scheme. The proposed development would constitute an unacceptable cumulative intensification of development on a series of sites of a restricted size and would, therefore, seriously injure the amenities of property in the vicinity.

WEB/1097/14: Permission REFUSED on this site for a dormer bungalow. The refusal reason cited massing, scale, height, and impacts on the amenities of surrounding dwellings.

1798/07: Permission GRANTED for demolition of existing detached garage and construction of a one bedroom detached bungalow.

On the Site of no. 2 Rathvale Park:

2760/06: Retention permission GRANTED for conversion of approved single dwelling under 3578/02 to two 2-bedroom 2 storey dwelling, to form 2A and 2B Rathvale Park. Existing garage structure to remain part of 2A.

3578/02: Permission GRANTED for 2-storey end of terrace house to side of 2 Rathvale Park.

5.0 Policy Context

5.1. National Policy Guidance

- Sustainable Residential Development in Urban Areas and associated 'Best Practice Urban Design Manual (2008)
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)

5.2. Dublin City Development Plan 2016-2022

- Zoning Objective Z1, to protect, provide and improve residential amenities
- Chapter 5: Quality Housing
- Section 16.10.2, Residential Quality Standards, Houses
- Section 16.10.8, Backland Development
- Section 16.10.10, Infill Development.
- Site Coverage for Z1: 45%-60%

- Plot Ratio for Z1: 0.5-2.0
- Parking: Area 3, maximum of 1.5 car parking space per residential unit.

5.3. **Natural Heritage Designations**

The nearest Natura sites are the North Dublin Bay SAC (000206), and the North Bull Island SPA (004006), some 2.5km to the south east and separated from the subject site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One appeal has been lodged by the residents of 93A Tonlegee Road, 2 Rathvale Park and 4 Rathvale Park. The grounds of appeal are summarised as follows:

- The submission is in essence the same as that previously refused by ABP under ref PLN.246277. The reason for refusal still stands.
- The proposal contravenes a previous permission in terms of open space. The condition should have been enforced. In calculating the open space, regard should be taken of the use by dwellings no. 2A and 2B of their attic space for bedrooms.
- The proposal raises security and noise issues along the boundaries of the neighbouring properties.
- The boundary wall between the site and no. 93A Tonlegee Road should be maintained and should not be reduced in height as proposed.
- Concern is raised about the disruption and noise from construction works and in relation to the stability of the boundary wall with 93A.
- The proposed dwelling is not in keeping with other dwellings in the area and is overdevelopment of the site.

6.2. **Applicant Response**

The applicant's response to the third party appeal is summarised as follows:

- The subject site is independent of sites no. 2 and 2A Rathvale Park and the development should be considered on its own merits.
- The open space needs of 2 and 2A are sufficient to meet current development plan standards.
- The applicant is amenable to maintaining the height of the boundary wall with 93A Tonlegee Road should the Board consider this appropriate.
- The proposed infill development with improve housing provision, without impacting on the integrity of the street or residential amenity of surrounding properties.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

Site History

- 7.1. Permission was granted in 2007 for a bungalow on this site, which was never constructed. Permission was refused by An Bord Pleanala in 2016. The planning inspector's report considered the development of a dwelling would be visually acceptable and met development plan standards, however, the history of the site provided that the appeal site was to be subdivided into the private open space of 2 and 2a. It was stated that the sites had never been subdivided as per a history permission and the proposed development would result in a substandard level of private open space to 2 and 2A. The Board refused permission due to an

unacceptable cumulative intensification of development on a series of sites of a restricted size which would seriously injure the amenities of property in the vicinity.

- 7.2. The applicant in this current application states that 2 and 2A have not been in his ownership since 2006, with the garage assigned to house 2B. It is stated that the division of private open space between 2, 2A and the appeal site 2B cannot be altered. The site should be assessed on its own merits. I note the Dublin City Council planner's report states the time for enforcement has passed and it is their view that the site's development should not be restricted by an historic permission relating to 2 and 2A. It is noted that the private open space standards in the development plan have since been reduced from a requirement of 15sqm per bedspace to 10sqm per bedspace and the private open space requirements for 2 and 2A are now satisfactory.
- 7.3. This proposed development differs from that previously refused by ABP in terms of the level of information supplied with this application in relation to the ownership of the surrounding properties/history of the site and the level of open space existing. The design of the proposed dwelling has also been amended from a flat roofed design to a hipped roof design. The development boundaries remain the same.

Zoning

- 7.4. The subject site is located within zoning objective Z1, the objective for which is '*to protect, provide and improve residential amenities*'. I consider the development of one dwelling to be acceptable in principle within the zoning objective for the area.
- 7.5. The plot ratio is stated to be 0.37 and site coverage is 44.1%.
- 7.6. The primary issues for consideration relates to the impact on residential amenity.

Impact on Residential Amenity

- 7.7. The proposed dwelling is located at the end of a row of dwellings between the rear gardens of 2/2A Rathvale Park and 93/93A Tonlegee Road, with frontage onto Rathvale Drive. The site was previously within the site boundary of 2 Rathvale Park, which was subsequently extended and subdivided into 2, 2A and 2B. The site comprises a large detached garage 79.9sqm in area with pedestrian access from Rathvale Drive. The site can be considered a backland and infill site.

- 7.8. The proposed dwelling is 4.7m high, with a hipped roof and a stated floor area of 52sqm. A private open space area is proposed to the rear and this space bounds the private gardens of houses nos. 2 and 4 Rathvale Park and 93 Tonlegee Road. In terms of its scale and positioning relative to the neighbouring boundaries, I am of the view that the proposed dwelling, which is smaller in footprint than the existing garage, will not significantly impact on the neighbouring properties in terms of overlooking or overshadowing. The hipped roof form mitigates the visual impact of the dwelling and I do not consider the issue of outlook to be significant given the design of the proposed dwelling as a bungalow with a hipped roof form. The proposed replacement building will in my view sit comfortably within the existing streetscape.
- 7.9. The minimum standards for a 1 storey, 1 bed house, as set out in the document 'Quality Housing for Sustainable Communities' by the DoEHLG, is 44sqm. I consider the scale of the dwelling at 52 sqm and the internal space arrangements to be adequate to meet the needs of future residents and in accordance with development plan requirements.
- 7.10. The Dublin City Development Plan 2016-2022 states that a minimum standard of 10 sqm of private open space per bedspace will normally be applied. Generally, up to 60-70 sqm of rear garden area is considered sufficient for houses in the city. The applicant has indicated an area of private open space to the rear of 47.3sqm, however upon measurement from the site layout plan I calculate the area to the rear of the dwelling as 35 sqm (5.5m deep x 6.4m wide). The private open space area is in accordance with development plan standards and is in my view of appropriate width and depth to serve the amenity needs of future residents.
- 7.11. I have considered further the cumulative impact of the proposed dwelling on the amenities of the neighbouring dwellings. While it is noted that the boundaries between 2 and 2A are not as previously permitted, the matter in hand is whether the development as now proposed with the boundaries as currently presented negatively impacts on the amenity of surrounding properties. I note that the boundaries as they now exist have existed in this form for 11 years, ie since 2006 when both properties 2 and 2A were bought from the applicant. I note that the applicant states, and it is not contested in the grounds of appeal, that no. 2 is a three bed house (4 bed spaces) with a rear garden of 45 sqm, no. 2A is a two bed house (3 bed spaces) with a rear

garden of 35sqm and no. 2B is a two bed house (three bed spaces) with a rear garden of 45sqm. While it is stated in the grounds of appeal that the attic spaces of 2A and 2B are known to be in use as bedrooms, the basic design of these dwellings are as two bed dwellings and any extension of family use into the attic space does not in my view result in a need to limit use within the footprint based on the garden area, therefore to require additional garden space based on attic use is not in my view reasonable. The area of open space available to each dwelling is therefore by current development plan standards adequate to meets the needs of the residents of those dwellings.

- 7.12. Overall, I am of the view, based on the information provided with this application in relation to dwellings sizes and corresponding open space, and having assessed the impact on neighbouring properties with regard to the current Dublin City Development Plan 2016-2022, the proposed dwelling can be accommodated within the confines of the existing site and will not unduly impact on the amenities of neighbouring properties.

Other Matters

- 7.13. The third party raises concerns in relation to the height of the boundary wall with 93A Tonlegee Road. The applicant states that he proposes to retain the boundary wall with 93A as per the existing height of garage, the wall of which will be retained and form part of this boundary. I consider this acceptable.

Appropriate Assessment

- 7.14. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale 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 amenities of the area or of property in the area. The proposed development 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 and completed 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. This permission is for one residential unit only.

Reason: In the interest of clarity.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Details of the height of the boundary wall with 93A Tonlegee Road, which shall be in accordance with what exists in so far as is practicable, shall be submitted to the planning authority for written agreement.

Reason: In the interest of residential amenity.

6. Water supply and drainage arrangements, including the attenuation of 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.

7. The development shall comply with the following requirements of the planning authority:
 - (a) Any gates shall be inward opening only.
 - (c) The footpath and kerb shall be dished to the requirements of the planning authority.
 - (d) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of the proper planning and sustainable development of the area.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 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 property in the vicinity.

9. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to

be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

10. Prior to commencement of development, proposals for a name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development.

11. 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 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.

Una O'Neill
Senior Planning Inspector

21st May 2018