



An
Bord
Pleanála

Inspector's Report ABP-301103-18

Development	2-storey house
Location	8, Great Western Avenue, Phibsborough, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4431/17
Applicant(s)	Nicole Muldoon
Type of Application	Permission
Planning Authority Decision	GRANT with conditions.
Type of Appeal	3 rd Party against decision
Appellant(s)	Eugene and Barbara Langan
Observer(s)	None
Date of Site Inspection	15/06/18
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The site is located in northwest Dublin City, within a small, formally arranged, Victorian suburban development south of the North Circular Road and north of the Broadstone Depo and DIT Grangegorman, c.1.3km northwest of O'Connell Street.
- 1.2. The site has a stated area of 88.14-sq.m and comprises the side garden on the southern side of an existing semi-detached, 2-storey, red-brick building. The existing dwelling is part of a set of 2 pairs of semi-detached dwellings on the western side of the avenue which leads to a landscaped square. The attached dwelling to the north (no.9) has previously been extended to the side by 2-storeys. The neighbouring dwelling to the south (no.7) abuts the site and presents a blank, render-finished wall there-to, and a part 2-storey structure erected to the rear of that dwelling, along (or close to) the party boundary.
- 1.3. The eastern side of the avenue is lined by a terrace of 5no., similarly designed dwellings. All the dwellings are setback from the street by private gardens of c.2m.
- 1.4. The adjoining site to the west accommodates an old industrial warehouse structure of breezeblock wall and (apparently) asbestos-concrete, corrugated roof, used by Hertz Rent-a-Car.

2.0 Proposed Development

- 2.1. It is proposed to erect a 2-storey dwelling of stated 92.75-sq.m GFL

3.0 Planning Authority Decision

3.1. Decision

GRANT subject to 12no. conditions, 11no. of which are of a standard type.

Condition no.4(A) limits the pedestrian entrance to 1.5m width and (B) requires that all bedrooms have a minimum floor area of 7.1-sq.m, and one of at least 13-sq.m.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (07/02/18) is consistent with the decision to grant permission and the conditions attaching thereto.

3.2.2. Other Technical Reports:

Drainage Division (08/01/18) – no objection subject to standard conditions.

3.2.3. Prescribed Bodies:

TII (05/01/18) – S.49 levy scheme Cross City (St. Stephen's Green to Broombridge Line) Contribution Scheme applies.

4.0 Planning History

None relevant.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

Land use zoning objective Z1 '*To protect, provide for an improve residential amenities*'.

Chapter 5 Quality Housing – Policy QH8

Chapter 16 Development Standards – S.16.10.2 Residential Quality Standards – Houses; S.16.10.10 Infill Housing; S.16.2.2.2 Infill Housing;

5.2. Reference documents

Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Sustainable Communities (DEHLG, 2015)

5.3. **Natural Heritage Designations**

South Dublin Bay and River Tolka Estuary SPA Site no.004020 (c.3.18km to the east).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main grounds of the Third-Party Appeal submitted by Eugene and Barbara Langan, of adjacent property to south, no.7, c/o Denis Byrne Architects, may be summarised as follow:

- The proposed development would directly abut the appellants' dwellinghouse and would require them to remove their gutter and change the drainage of their hipped-roof.
- Would increase maintenance requirements and reduce fire safety and acoustic separations.
- Has the capacity to cause damp penetration, attract small animals and rubbish, without possible access for maintenance or remedial works.
- The physical amendments necessitated to the appellants' property generally require a legal agreement between parties, which has not yet been sought by the applicant and would not likely be given by the appellants.
- Serious flaws in proposed development concerning private open space and residential space with regard to relevant departmental guidelines (Quality Homes).
- Insufficient information provided regarding the necessary works to adjoining property.
- The appellants would accept a 1m separation distance between existing and proposed gable walls.

6.2. Applicant Response

The main points of the response from Nicole Muldoon (09/04/18) may be summarised as follow:

- The appellants were not agreeable to a proposed design to 'latch' the new dwelling onto their existing gable wall and continue the roof ridge line to mirror the dwelling on the east side of the street.
- The appellants have never had access to the side garden nor requested permission to access it for maintenance of their property and no rights of way, no boundary rights or shared access rights have ever been agreed or implied.
- The proposed building would not touch or join or border the appellants' gable wall and it is not intended to alter the appellants' property, including their gutter (see drawing S-D10 appended).
- A 1m separation distance is unrealistic and unwarranted and the proposed building is in compliance (and will be certified) with building regulations insofar as no moisture will seep into, or rubbish collect by the appellants' property.
- The proposed design is in harmony with the Development Plan, including s.16.2.2.2 infill development design standards, but a 1m separation distance would be contrary to this, would make it impossible to meet floor space standards and present security issues for the applicant.
- The proposed dwelling is to be constructed to A-rating energy standards, with increase sound insulation and fire retarding living conditions, with a concrete building benefitting in terms of durability, fire resistance, sound insulation and water resistance qualities.
- The proposed dwelling is in a tight urban setting, comparable to nos.8 and 9 which is less than 25-sq.m. Ample open space is proposed for practical and amenity purposes.

7.0 Assessment

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

7.1 Policy / principle

- 7.2 Visual impact and context
- 7.3 Impact on residential amenities
- 7.4 Compliance with standards
- 7.5 Other issues
- 7.6 Appropriate Assessment

7.1. **Policy / principle**

- 7.1.1. Residential development is permitted in principle within the Z1 zone and the use of this site for infill housing accords with Council policy QH8.

7.2. **Visual impact and context**

- 7.2.1. The site is located in an architecturally distinctive and coherent, historic suburb. The site is not within the Architectural Conservation Area of Great Western Square, which abuts the south end of the avenue. The proposed dwelling design accords well with the character of the area and is compliant with the design standards for infill development under s.16.2.2.2 of the Plan. Although I have some reservations of the retaining of a gap of c.100mm between the proposed dwelling and the neighbouring dwelling to the south (no.7), I consider the proposed dwelling design to be generally visually acceptable, subject use of appropriate material finishes to the front elevation and roof, agreement of the details of the junction and gap between the existing and proposed dwelling, and provision of a pedestrian entrance only to the front boundary to match those of the existing entrances to dwellings on the avenue. These issues can be addressed by standard condition.

7.3. **Impact on residential amenities**

- 7.3.1. The proposed development would not unduly impact on the amenities of residential property in the vicinity by way of overlooking, overshadowing or visual intrusion.

7.4. **Compliance with standards**

- 7.4.1. S.16.10.2 sets out the residential quality standards applicable for houses, referring to the standards set under s.5.3 (and table 5.1) of the Quality Housing guidelines.

According to the Planner's Report the proposed development is compliant except in terms of minimum bedroom size standards. 13-sq.m master, 11.4-sq.m double and 7.1-sq.m single (32-sq.m on aggregate) are the applicable standards for a 5-bed 5-person house, whereas 12.8-sq.m, 10.2-sq.m and 4.9-sq.m (excluding bulkhead over stairs) (c.28-sqm aggregate, or 30-sq.m if the master en-suite is included) are proposed.

- 7.4.2. I consider it unlikely that the proposed dwelling can achieve the standards above that applicable to a 3-bed 4-person house given the restricted first floor level space. Condition no.4(B) attaching to the Council's decision addresses this issue appropriately and, in the event of a grant of decision a similar condition should be attached.
- 7.4.3. The Plan, under S.16.10.10 Infill Housing, allows for flexibility in application of standards for infill housing in certain limited circumstances. Given the location of the site proximate to quality public transport and to the city centre, and the prevailing pattern and form of development in this area, including the limited rear private open space available to dwellings, I would agree with position of the planning authority that the limited area of private open space proposed (c.14-sq.m), although well short of the 10-sq.m per bedspace normally required, is acceptable in this instance.

7.5. Other issues

- 7.5.1. The principle grounds of appeal relate to the potential adverse impact on the existing neighbouring dwelling, in terms of potential water ingress and dampness, collection of rubbish, attraction of small mammals etc., and risk of fire and noise, through the narrow gap left between the existing gable of the adjacent house to the south and proposed new house. In addition, it has been submitted that the developer will have to remove their gutters and drainage facilities to facilitate the development and will not be able to access the north side of their property for maintenance.
- 7.5.2. The applicant submits that the appellants have no rights of access for maintenance and that there are no rights of way or other rights of other parties over the property. This is a civil matter and s.34(13) of the Planning and Development Act, 2000, as amended, applies – '*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*'

- 7.5.3. The applicant claims that the proposed development will comply building regulations such as would prevent damp and water ingress, and that as an A-rated house constructed of concrete block it would reduce potential risks associated with fire and noise.
- 7.5.4. The applicant responds that it is not proposed to amend the gutters to no.7. Drawings S-D10 *Proposed Eaves Detail at Side Wall*, submitted in response to the appeal, illustrates the proposed surface water drainage to the proposed eaves, entailing use of a box gutter under the level of the eaves and gutters to the appellants' property. The proposed design appears reasonable and feasible.
- 7.5.5. It would be undesirable from both an aesthetic perspective and for practical purposes (water ingress and access by small mammals) to retain an obvious narrow gap between the existing and proposed dwellings. The drawings suggest the gap would be 100mm, which, whilst not likely to be particularly obtrusive, would not be insignificant in the street context. The final details of the junction between the proposed dwelling and the neighbouring dwelling to the south should be subject of agreement with the Planning Authority.
- 7.5.6. The section 48 and section 49 Development Contributions conditions are not subject of appeal. The sums attached by the Planning Authority appear to be correct.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the small-scale nature of the development proposed within an 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, scale and location of the development proposed, 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 for an 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 below.

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. Prior to the commencement of development, the applicant shall submit revised details and drawings, for the written agreement of the planning authority, showing all bedrooms with a minimum floor area of at least 7.1-sq.m and at least 1no. bedroom with a minimum floor area of at least 13-sq.m.

Reason: In the interest of development standards

3. Prior to the commencement of development, the applicant shall submit revised details and drawings, for the written agreement of the planning

authority, showing:

(a) A pedestrian entrance, only, provided to the front site boundary, the width and design of which shall match, in so far as is practicable, that of the existing entrance to the front of no.8 Great Western Avenue.

(b) Minimising, as much as is practicable, of the proposed gap between the southern end of the proposed dwelling and the northern end of the neighbouring dwelling, no.7 Great Western Avenue, as viewed from the front and rear elevations.

(c) The details of materials, colours and textures, including samples, of all external finishes to the front elevation and roof of the dwelling.

Reason: In the interest of visual amenity.

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. 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: To safeguard the [residential] amenities of property in the vicinity

6. The developer shall pay to the planning authority a financial contribution of €8,013 (eight thousand and thirteen 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.

7. The developer shall pay to the planning authority a financial contribution of €2000.00 (two thousand euro) in respect of LUAS Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

John Desmond
Senior Planning Inspector

15th June 2018