



An
Bord
Pleanála

Inspector's Report ABP-301355-18

Development

Demolition of an existing carport and utility and construction of new utility (area 9.3 sqm); construction of two-storey detached house (area 145 sqm) to the side of existing house; alterations to front boundary to form separate vehicular access to both houses; subdivision of front and rear gardens; construction of new garden wall to side of new house and new boundary walls to front and rear; all ancillary site works.

Location

39 Finsbury Park, Churchtown, Dublin
14

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D18A/0041

Applicant(s)

Brian and Martin Moran

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal	First Party
Appellant(s)	Brian and Martin Moran
Observer(s)	<ol style="list-style-type: none">1. Tim Geraghty2. John and Margaret Stokes3. Brid Horan and John Hall4. Rodney and Sylvia Croly5. Anthony and Elizabeth Fagan6. Eric and Teresa Mayrs7. Orla and Alan Fanagan
Date of Site Inspection	6 th July 2018
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site is located in the side garden of an existing two storey detached house – No. 39 Finsbury Park, Churchtown, Dublin 14. The area is an established mature residential area.
- 1.2. The site is located at the corner of a cul de sac which is shared by 5 No. detached dwellings including No. 39. They are located in an arc shape facing a green area which adjoins a school. Part of the school site is currently being developed for housing.
- 1.3. The boundary of the site is shared with Nos. 36 to 38 Finsbury Park. The site has a stated area of 0.38 hectares and is irregular in shape. The site rises from the road towards the back and the dwellings to the west are located on higher ground levels than the site.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two storey 3 No. bedroom detached dwelling in the side garden of an existing dwelling. The proposed development also provides for the demolition of the existing carport and utility room to the side of No. 39 and the construction of a new utility room at this location.
- 2.2. The proposed dwelling is a modern contemporary design with a flat roof. A brick finish is proposed. The overall floor area is 145 square metres.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for one reason only as follows:

'It is considered that the proposed dwelling, given its contemporary design would appear visually obtrusive and incongruous when viewed from surrounding properties and the street, and would therefore have a negative impact on the character of the area, and having regard to the inadequate depth of the proposed dwelling's rear

garden and the limited separation distance from first floor windows, it is considered that the proposed development would be contrary to Section 8.2.3.4 (v) (Corner/Side Garden Sites) of the Dun Laoghaire-Rathdown County Development Plan 2016-2022. Therefore it is considered that the proposed development on a limited corner site would represent overdevelopment of the site, would result in a substandard level of residential amenity for future occupants of the proposed dwelling, and have a detrimental impact on the residential amenity of the neighbouring properties, and would set a poor precedent for similar type development in the area. It is considered that the proposed development would materially contravene the zoning objective, which is 'A', 'to protect and/or improve residential amenity', would seriously injure the residential and visual amenities of the area and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner expressed concern in relation to the design, the quality of private open space, overlooking and overdevelopment of the site.

3.2.2. Other Technical Reports

Transportation Planning

- No objection subject to conditions.

Drainage Planning

- Further information required.

3.3. Third Party Observations

Ten submissions/ observations were received by the Planning Authority. Nine letters of objection and one of support. The issues raised reflect those in the observations submitted to this appeal.

4.0 Planning History

PA D17A/0374

Permission refused for a detached two storey house in side garden.

Certificate of Exemption

Ref. V/056/17 granted 20th April 2017.

5.0 Policy Context

5.1. Development Plan

Site is zoned as 'A' in the 2016-2022 Dun Laoghaire Rathdown County Development Plan- 'To protect and/or improve residential amenity.'

Section 8.2.3.4 (v) Corner/Side Garden Sites and (vii) Infill: *"New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings."*

Section 2.1.3.4 Existing Housing Stock Densification: *"Encourage densification of the existing suburbs in order to help retain population levels - by infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc."*

In older residential suburbs, infill will be encouraged while still protecting the character of these areas."

5.2. Natural Heritage Designations

5.2.1. None applicable.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of the appeal can be summarised as follows:

- The house design is more compact than neighbours.
- The house design is a contemporary take on the 1970's style of neighbouring houses.
- A photomontage is attached to show the approach when viewed from the corner of the cul de sac.
- The building line at this location is an arc and the new house has been designed to respond to this.
- The only departure in design is the flat roof which is common on infill sites in Dublin.
- The proposed first floor windows cannot sensibly be considered as directly overlooking – they are angled at 45 degrees to the windows behind and are 1m lower than the first floor of the windows behind.
- The bay window can be angled to look out onto the front of the site - Fig. 1.
- The window to the master bedroom can be relocated to the front.
- The main private open space is to the side of the site.
- The site is 33m² bigger than the previous application on the site.
- It is considered that the previous reason for refusal has been overcome.

6.2. Planning Authority Response

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.3. Observations

Observations have been submitted from the following parties:

1. Tim Geraghty
2. John and Margaret Stokes
3. Brid Horan and John Hall
4. Rodney and Sylvia Croly
5. Anthony and Elizabeth Fagan
6. Eric and Teresa Mayrs
7. Orla and Alan Fanagan

The issues raised are largely similar and can be summarised as follows:

- Design obtrusive and incongruous and concern regarding negative impact on character of area and depreciation of houses in the area.
- Concern regarding overlooking and impacts on residential amenity.
- Concern regarding overdevelopment of site.
- Visually intrusive when viewed from back gardens.
- The proposed angled windows will not reduce overlooking.
- Design is a substantial departure in terms of style and design which means it will not fit in with its neighbours.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Planning History
- Impact on Residential Amenity
- Design
- Other Matters
- Appropriate Assessment

7.2. Planning History

7.2.1. I note that the Planning Authority refused permission for a 3 bedroom dwelling at this location under PA Reg. Ref. D17A/0374. The site is zoned as Objective A- 'To protect or improve residential amenity.

7.2.2. The main changes proposed involve the enlargement of the site by 33m² by the demolition of a car port and inclusion of part of an adjoining site at No. 39 and the reduction in the height and floor area of the house. The design has completely changed from a traditional detached dwelling similar to those on adjacent sites to a modern contemporary flat roofed dwelling. I note that previously all 3 bedroom windows previously overlooked the public road in front of the house whereas now, only one overlooks the road and two of the bedroom windows are located at the side of the house.

7.2.3. I am satisfied that the change in height, the revised design, the increase in the size of the site, and the decrease in the floor area of the house are an improvement on the previous proposal submitted.

7.3. Impact on Residential Amenity

- 7.3.1. The main concerns raised in relation to residential amenity relate to overlooking. There are no issues with regard to overlooking from the rear of the house as the design does not provide for rear windows. The main issue in terms of overlooking is from the two bedroom windows in the side elevation. I note that the smallest bedroom overlooks the road. The adjoining houses to the east at Nos. 36-38 have limited garden depths – c. 9m.
- 7.3.2. Both bedrooms provide for a combination of a solid privacy panel of obscured glass and normal glazing. The appeal makes the point that there would be no direct overlooking due the location of the windows 1m lower than windows of existing houses and the angle they are facing which is at 45 degrees rather than directly into the first floor windows of neighbouring dwellings.
- 7.3.3. The appeal offers two proposals to address overlooking as follows: 1. Angle the bay window to the front thus allowing the occupant to view out in one direction only and 2. The window in the master bedroom to the front could be relocated to the front.
- 7.3.4. I consider that the relocation of the master bedroom window to the front of the house would be a better solution and it removes any concern regarding either overlooking or perceived overlooking from the window and window seat at this location. This matter can be conditioned. The bedroom at the rear of the house is located further back from the boundary and adjoining properties than the master bedroom. It is proposed that the window will be angled and a solid privacy panel will be used for part of the window. Having regard to the difference in levels between this site and the adjoining properties to the west and the angle the window is facing, I consider that the window would not be directly opposing any first floor bedroom windows. As such, I am satisfied that no significant overlooking would occur.

7.4. Design

- 7.4.1. The observers consider that the design proposed would have a negative impact on the character of the area and that the building at No. 39A will be visually incongruous.

- 7.4.2. I accept that the proposed design is modern and contemporary and is at variance with existing development in the area.
- 7.4.3. The site is a wide site (c.19.5m) located on a corner and there are a large number of mature trees located in the garden of No. 38 which in my view will substantially conceal the proposed house as one turns the corner. Figure 1 of the appeal is a photomontage of the approach to No. 39A around the corner of the cul de sac.
- 7.4.4. The external finishes of the proposed dwelling complement existing finishes in the area and the porch size is similar to that of No. 39.
- 7.4.5. The Development Plan states that 'larger corner sites may allow more variation in design'. I consider that the combined factors of the wider site, the separation distance between No. 38 and the site, the large area of public open space to the front of the site, the mature trees in the area and the use of design features and materials similar to existing houses will allow the proposed house to be absorbed into the landscape at this location. I note that a more traditional design was proposed under PA D17A/0374, however I consider that the proposed design is more attractive than the previous design proposed.
- 7.4.6. The building line is forward of No. 39 however I consider that this is satisfactory having regard to the existing layout in the cul de sac as building lines are staggered and houses form an arc shape.
- 7.4.7. I consider that the design proposed is modern and contemporary. The design proposed is acceptable in terms of scale, height and massing will have no significant adverse visual impact for the overall area in my view. There is already a range of designs in the area and I consider that the design will not detract from the visual amenities of the area.

7.5. Other Matters

- 7.5.1. The development plan requirement for private open space is set out in Section 8.2.8.4 and is 60m² for a three bedroom house. The plan states that any provision of open space to the side of dwellings will only be considered as part of the open space calculation where it is usable good quality space. Narrow strips to the side of houses will not be considered.

- 7.5.2. A total of 120m² of private open space is proposed to the rear and side. The main private open space would be to the side of the house which would be served by a door from the living room. This would be separated from the public road by a 1.8m high wall with planter bed and is west facing. It has an irregular shape which is 18m wide at the front and narrows considerably towards the rear of the site. I am satisfied that the area of useable good quality space complies with the Development Plan requirements.
- 7.5.3. In terms of the concerns raised regarding overdevelopment of the site, I note that this site has a plot ratio of 24.8% which is acceptable at this location.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, a residential infill development on serviced land within an established urban area, and the distance 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.

Recommendation

It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

Reasons and Considerations

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016 to 2022, and to the nature, scale and extent of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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. The window in the master bedroom shall be relocated to the front of the dwelling. Revised drawings indicating this amendment shall be submitted for written agreement prior to commencement of development.

Reason: In the interest of protecting the residential amenity of adjoining dwellings.

3. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of orderly development and the visual amenities of the area.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

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: In order to safeguard the residential amenities of property in the vicinity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

8. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

9. 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 be erected on the within the rear garden area, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling.

10. 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.

Emer Doyle
Planning Inspector

26th July 2018