



An
Bord
Pleanála

Inspector's Report ABP-301467-18

Development	Demolish a house, construct replacement.
Location	8 Castle Court, Booterstown, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0094
Applicant(s)	Deirdre Devaney
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	Applicant vs Refusal
Appellant(s)	Deirdre Devaney
Observer(s)	<ol style="list-style-type: none">1. Michael & Anne Carew2. Gerald Owens3. Mary Owens4. Castle Court Residents Association5. Brian & Brid Mulrean6. Patrick McGilligan
Date of Site Inspection	4 th July 2018
Inspector	Hugh Mannion

1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.03ha and is in Booterstown, in the south-eastern suburbs of Dublin city. The wider area is accessed from Booterstown Avenue which links Merrion Avenue/Rock Road in the east to the N11/Stillorgan Road to the west. The housing in Castle Court dates from about the 1970's and comprises a mix of bungalows and two storey houses. Castle Court is a cul de sac and the application site is the last house on the left before the boundary wall which separates it from the playing fields of St Andrews College.
- 1.2. The existing bungalow has a gated access into a central courtyard with an additional garden to the rear. The bungalow is built along the boundary with number 7 Castle Court on its northern boundary. The southern boundary is defined by a two metre wall along the St Andrews site while the eastern boundary adjoins the rear gardens of numbers 13 and 14 Beech Grove.

2.0 Proposed Development

- 2.1. The proposed development comprises demolition of an existing 95m² bungalow and construction of a 239m² single storey over partial basement house with courtyard and roof terrace, retaining a car space in front and associated works at 8 Castle Court, Booterstown, County Dublin.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission because;

The scale, height, orientation and excessive site coverage would seriously injure the amenity of property to the north and east through overshadowing/over bearing.

Northern boundary will impact on 7 Castle Court and would seriously injure the amenity thereof.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. The planner's report recommended refusal for the reason set out in the manager's order.

3.2.3. Other Technical Reports:

3.3. **Drainage Planning** reported no objection subject to condition.

3.4. **Transport Planning** requested further information in relation to access/parking.

4.0 **Planning History**

There is no relevant recent planning history.

5.0 **Policy Context**

5.1. **Development Plan**

The proposed development is in an area zoned A 'to protect and or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.2. **Natural Heritage Designations**

See AA screening below.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- This is a replacement house on small residential plot in a 1970s development. The proposed development will be of contemporary design, more energy efficient and better laid out.
- Numbers 4 and 5 Castle Court have extensions to their rear boundaries. There are similar developments on nearby sites. Exempted development

within the existing site would have the same impact as the proposed development thus negating the reference in the planning authority's decision to refuse to site coverage.

- The proposed development will not negatively impact on the site to the rear (east of the site). However, an amended rear/eastern boundary wall is proposed which is only 50mm higher than the present boundary wall.
- On the northern boundary the combination of the house at 7 Castle Court and the shed in its rear garden means that there is a 4m section of boundary which is not built on. The proposed development will not materially impact on the garden of number 7. However, the applicant has revised the proposed boundary in the appeal submission downwards by 0.43m to replicate the eaves height of the existing house.
- The orientation of the house remains unchanged.
- The planning authority previously granted permission for demolition/rebuild at Avoca Road and Glen Road in Blackrock.
- Car parking to meet development plan standards can be provided on site.

6.2. Planning Authority Response

- No submission.

6.3. Observations

There are observations from Michael & Anne Carew, Gerald Owens, Mary Owens Castle Court Residents Association, Brian & Brid Mulrean, Patrick McGilligan. The points raised are as follows;

- The proposed development will be out of character with the neo-Georgian character of development in the area. The change of the bungalow façade onto Castle Court will seriously injure the visual amenity of the area.
- The materials, especially a metal roof, is out of character with the area.

- The proposal will negatively impact on the former CIE cottages in Beech Grove.
- The proposed development would undermine foundations of adjoining houses.
- The roof garden will overlook other properties.
- The basement may alter the watertable in the area and give rise to flooding.

6.4. Further Responses

There are no further responses.

7.0 Assessment

7.1. The site is zoned for residential use in the current County Development Plan. The Development Plan at 8.2.3.4(xix) addresses the issue of demolition and replacement of dwelling houses. It makes the following points;

- The planning authority may state a preference for retention of houses which are not protected structures where they have their own merit and contribute beneficially to the area in terms of visual amenity, character and accommodation type.
- Achieving greater energy efficiency will be a significant consideration.
- A strong justification for demolition should be made by applicant for demolition
- There will be a presumption in favour of retention of buildings of heritage interest.

7.2. The existing house on site dates from the 1970s and is one of a group of single storey houses on this side of the street road while there are two storey houses on the other (western) side of the street. The observers make the point that there is a significant amenity value to the pattern of development in Castle Court. However, the existing house is not a protected structure nor has the planning authority expressed the view that it is of significant heritage value. Therefore, I conclude that the presumption against demolition and rebuild set out in the development plan does not apply in this case.

- 7.3. While there is a distinctive rhythm of solid and void along the adjoining house frontages I consider the end house/site in the group can be afforded additional flexibility in design approach. The proposed elevation (see drawing 'proposed elevations' drawing number 1730 P 200) shows a relatively modest departure from the existing pattern of development. I conclude that this proposed elevation will not seriously impact on the visual amenity of the wider area or the residential amenity of nearby property.
- 7.4. There is a terrace proposed over the front/roadside element of the new house. The observers state that this terrace will give rise to overlooking of adjoining property. It may be noted that there is a screen wall 1.8m high around this terrace which will significantly restrict views out from the terrace. The views west from the terrace, where they exist will be onto the application site's front yard/car space, the turning circle and the front gardens of houses across the street. These spaces are not regarded as private amenity space because they are not ordinarily screened from public view and therefore overlooking will not negatively impact on them. The terrace is about 4.5m off the northern boundary with a hipped roof intervening for most of the space between the terrace and the boundary with 7 Castle Court. The southern boundary addresses the playing pitches/recreational ground of a school. Given the screen wall and the separation distances from the northern site boundary I conclude that the terrace will not seriously impact on the amenity of adjoining property.
- 7.5. There is a flat roofed area (marked as 'plant' on the submitted drawings) which if used as recreational space does have the capacity to overlook the gardens/recreational areas attached to numbers 13 and 14 Beech Grove. I recommend a condition omitting this plant/flat roofed area.
- 7.6. The planning authority refused permission, *inter alia*, because of inadequate private amenity space. The proposed house has two bedrooms. The development plan standards (paragraph 8.2.8.4(i)) requires 48m² of private amenity space for two-bedroom houses. The application proposes about 75m² and even omitting the terrace there would be about 50m² of ground level private courtyard. Therefore, I conclude that the proposed open space meets the development plan standards and is sufficient to meet the recreational needs of future residents.

- 7.7. The planning authority refused permission because the proposed development would seriously injure the amenity of property to the north and east by overshadowing/being overbearing. The property to the east is the rear gardens of 13 and 14 Beech Grove. These are single storey detached houses that may have been built by a railway company for its staff in the late 19th or early 20th century. The proposed rear boundary wall will be 3.1m high when the flat roofed area has been omitted (see paragraph 7.5 above). I consider that this boundary wall will not unreasonably impact on the amenity of the gardens of 13 and 14 Beech Grove.
- 7.8. The houses in Castle Court are built on their northern site boundaries. The current house extends about 28m from front house wall to rear garden boundary wall on an elevation that is about 42m in total. The height is 2.45m. The proposed development will stretch the full 42m with a wall height of 3.1m. There is a shed built up against this boundary wall in the rear garden of 8 Castle Court. While the change will be obvious I do not consider that it will be seriously injure the amenity of the property in 7 Castle Court.
- 7.9. The observer states that the proposed development may undermine the foundations of adjoining property. The application drawings show all works proposed to be undertaken inside the boundary of the application site. Furthermore, the applicant has separate responsibility under civil law in relation to property rights of others. Where the proposed development is undertaken in accordance with standard construction practice and in accordance with this application I conclude that no impacts should arise for the stability of adjoining property.
- The observer states that the proposed development may impact on the water table. Whereas it is possible that the basement (about 6.5m below ground level) may be below the watertable I conclude that its very modest scale will not significantly interrupt ground water flows in the area. It may be noted that the planning authority's surface water drainage report raised no objections in relation to water management within the site. I conclude that the proposed development will not give rise to material impacts on the ground water regime outside the application site.
- 7.10. The observers make the point that the proposed materials, particularly the zinc roof, are out of character with the pattern of development in the area. I consider that the

proposed materials/finishes are reasonable variations within the context of the built environment of the area.

- 7.11. I note the amendments to the application submitted with the appeal. I consider that these changes depart sufficiently far from the original application as to require a separate application for permission which would allow submissions from the public and assessment and consideration by the planning authority.
- 7.12. Finally, I conclude that the applicant, in reference especially to energy efficiency and the disposition of space within the site, makes a reasonable case for demolition and rebuild as proposed which meets the requirements of the development plan in relation to such applications.

7.13. **Appropriate Assessment Screening**

- 7.14. Having regard to very modest scale of the proposed development and its location in a urban area where public piped services are available 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. Having regard to the foregoing I recommend granting permission for the reasons and considerations and subject to eth conditions set out below.

9.0 **Reasons and Considerations**

- 9.1. The proposed development is located in an area zoned to protect and improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022. Having regard to the pattern of residential development in the area, to the existing house on site and subject to compliance with the conditions set out below it is considered that the proposed development would comply with the zoning provisions of the county development plan, would not seriously injure the residential amenity of adjoining property by reason of overshadowing or overlooking and would, therefore, accord 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. The flat roof area to the rear of the proposed house described as 'Plant' on the submitted drawings shall be omitted from the proposed development. Prior to commencement of development plans and particulars providing for this omission shall be submitted to and agreed in writing with the planning authority.

Reason: To prevent overlooking of adjoining property in the interest of residential amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

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. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

6. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Hugh Mannion
Senior Planning Inspector

6th July 2018