



An
Bord
Pleanála

Inspector's Report ABP-301771-18

Development	A detached two-storey house to the rear of existing two-storey house with new driveway, and including widened road access for existing house.
Location	25 Ballyroan Heights, Rathfarnham, Dublin 16.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD17A/0305
Applicant(s)	Tom & Rachel Gill
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Tom & Rachel Gill
Observer(s)	None
Date of Site Inspection	14 th August 2018
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.0819ha, comprises the curtilage of no. 25 Ballyroan Heights, Dublin 16 – a two-storey detached house with large single-storey extension to the rear. It is located within a short cul de sac, serving just four houses located around the turning area at the head. There is extensive on-site parking to the front and rear of the existing house – as is the case with the other houses. The site slopes very gently downhill from southwest to northeast.
- 1.2. To the north, the site abuts the curtilage of no. 27 Ballyroan Heights – the boundary with which is a low concrete block wall with a line of mature conifer trees on the site side, and some shrubs on the adjoining site. To the east, the site abuts the curtilage of no. 23 Ballyroan Heights – the boundary with which is mature planting. To the south the site abuts a public open space area associated with the Templeroan Downs housing estate – the boundary with which is a 1.5m high concrete block wall (which may function as a retaining wall) surmounted by a 1.5m high timber fence. There is extensive screen planting to the rear of this boundary, on the public open space (Templeroan Downs) side. To the southwest, the site abuts the rear garden of no. 35 Templeroan Downs – a two-storey semi-detached house with detached garage built on or immediately abutting the site boundary. The rear garden of this house appears to be located at a higher level than the appeal site. To the west, the site abuts the curtilage of Ballyroan House – the boundary with which is a 1.4m high concrete block wall. There is a printing business in a single-storey building within the curtilage of Ballyroan House – which building immediately abuts a similar-type construction large garage within the curtilage of the appeal site (not shown on drawings submitted). This printing business is erroneously referred to within documentation submitted as a ‘paint’ shop.

2.0 Proposed Development

- 2.1. Permission was sought on 31st August 2017, to construct a part single-storey/part two-storey house (246m²) with monopitch roofs of up to 6.5m in height. The house will be located to the rear of an existing two-storey detached house – together with the provision of new vehicular entrance arrangements for the existing and proposed houses on the site. A detached double garage is to be provided for the new house.

A large flat-roofed garage in the corner of the garden is to be demolished to facilitate the construction of the new house. It is proposed to connect to the public water supply and to public foul sewer. Surface water is to be discharged to a soakway.

2.2. Following a request for additional information, a submission was made on 9th April 2018. This included the following-

- Shadow analysis.
- Details of surface water soak-way and percolation on the site.
- Revised drawings are included to show adjoining proposed development on Ballyroan House site to the west.
- The applicants would be happy to seek planning permission to demolish the garage on their site, should it be the case that the adjoining print shop building within the curtilage of Ballyroan House was not demolished (as has been proposed as part of the housing development on that site). The high walls of the print shop building are to be retained – where they form a common boundary with the appeal site.
- There is a separation of 17m between the gable of the proposed house and the closest proposed house within the Ballyroan House development.

3.0 Planning Authority Decision

By Order dated 4th May 2018, SDCC issued a Notification of decision to refuse planning permission for two reasons, which can be summarised as follows-

1. Material contravention of the residential zoning, in relation to unacceptable visual and residential impact on adjoining property to the west, and future development proposed at this adjoining site.
2. A paint [sic] shop is to be demolished as part of an adjoining development (ref. SD17A/0064) which is the subject of an appeal to An Bord Pleanála, with no decision to date. The proposed development would seriously injure the amenities of future occupants of the dwelling due to the existing paint [sic] shop which abuts the site and would contravene the zoning objective, which seeks to protect and/or improve residential amenity.

4.0 Planning History

SD17A/0064: Permission granted by SDCC to demolish stable block and to convert Ballyroan House for mixed residential development of apartments and houses. On appeal by 1st and 3rd parties to An Bord Pleanála (**PL 06S.249209**) permission was confirmed on 10th May 2018, subject to omission of three of the residential units. [This site is located immediately to the west of the current appeal site]. There is no development to date on foot of this permission. The print shop was operational on the date of site inspection by this Inspector.

5.0 Policy Context

5.1. Development Plan

The relevant document is the South Dublin County Development Plan 2016-2022. The site is zoned “To protect and/or improve residential amenity”. Section 11.3.2 (i) of the Plan deals with infill sites, whilst 11.3.2 (ii) deals with corner/side garden sites. Section 11.3.2 (iii) deals with backland development, and states-

The design of development on backland sites should meet the criteria for infill development in addition to the following criteria:

- Be guided by a site analysis process in regard to the scale, siting and layout of development.
- Avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area.
- Development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking.
- Access for pedestrians and vehicles should be clearly legible and, where appropriate, promote mid-block connectivity.

5.2. Natural Heritage Designations

None relevant in the immediate area.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from Tom & Rachel Gill, received by An Bord Pleanála on 29th May 2018, can be summarised in bullet point format as follows-

- All relevant house design standards were observed in the submission of this planning application.
- A series of reconfigured designs are submitted for the consideration of An Bord Pleanála – A-C.
- Reconfiguration A has a first floor/second floor set-back of 1.5m, with remaining monopitch roof to west.
- Reconfiguration B has a first floor/second floor set-back with modified gable roof profile to the west.
- Reconfiguration C had no additional set-back of first floor/second floor with modified gable roof profile to the west.
- It is considered that reconfiguration B best addresses the concerns of SDCC. This provides an effective transition of roof profile. This will result in a reduction in roof height from 6.5m to 5.5m, closest to the site to the west. This will also ensure no degree of overshadowing.
- Following demolition of the garage in the corner of the rear garden, the 2.9m high wall would be retained to provide additional screening for the adjoining property to the west.
- The Board granted permission for demolition of the adjoining paint [sic] shop structure within the grounds of Ballyroan House on 10th May 2018. This renders the second reason for refusal a moot point, as the implementation of this permission will ensure that the basis for the refusal reason no longer exists.
- The paint [sic] shop on the adjoining site, and the garage on the current appeal site, do not share a party wall – photograph attached.

- It is questioned whether planning permission is required at all to demolish the garage structure.
- The natural preference of the applicants is for the original design.

6.1.2. The appeal is accompanied by drawings showing the three potential reconfigurations A-C.

6.2. **Planning Authority Response**

None received.

7.0 **Assessment**

7.1. **General Comment**

The principal of erecting a house in the rear garden of no. 25 Ballyroan Heights is not at issue in this instance, rather the positioning of the house and its size. This arises from concerns in relation to overshadowing and overbearing aspect when viewed from adjoining lands – particularly to the southwest, but also to the west, where permission has recently been granted for a small housing development within the grounds of Ballyroan House. The appeal site and surrounding residential development would once have formed part of the curtilage of Ballyroan House, and the appeal site itself is largely located on what was formerly a range of outbuildings serving the larger house. The foundations for these outbuildings may still be in place beneath the rear garden of no. 25.

7.2. **Layout & Design**

7.2.1. The site is a large one, and I would see no difficulty with the siting of a second house within the curtilage of no. 25. The design proposed is part single-storey and part two-storey. The overall design concept of the house and the finishes proposed are acceptable. It will not be visible from any public road. The difficulty lies with the two-storey, southern portion of the house. It partially abuts the public open space area of Templeroan Downs and partly abuts the rear garden of no. 35 Templeroan Downs. The new house will be approximately 10m from the closest part of no. 35. However, being located to the north, there will be no issue in relation to overshadowing.

Neither will there be any issue in relation to overlooking. However, the roof of the two-storey portion will be particularly visible from the rear garden of no. 35, which is located at a higher level. It is not possible to establish the exact difference in levels, as there are no cross-section drawings showing the proposed development relative to no. 35. Most emphasis has been placed on the relation between the new house and a proposed housing development within the curtilage of Ballyroan House to the west. The print shop, within the curtilage of Ballyroan House, is to be demolished, and the area largely given over to the creation of a 15m long rear garden for one of the terraced houses within that proposed development. The proposed house on the appeal site is to be constructed close to the southern boundary – leaving just a narrow passage to the south and west. The mono-pitch roof of the two-storey block has an overhang of approximately 0.3m on all sides, and a maximum height of 6.5m. The size and extent of this roof would render it domineering and over-bearing when viewed from surrounding property – arising from its proximity to boundaries to the southwest and west. The three alternative roof proposals put forward by the applicant, by way of 1st Party appeal, would not result in any significant difference to the bulk and appearance of the two-storey section of the house. First floor windows within the proposed new house would overlook the rear garden which is proposed for no. 25 Ballyroan Heights – the separation distance to the new boundary being only 7m.

- 7.2.2. The floor area of the house is large – at 246m². The first floor is approximately 58m². I would consider that the first floor should be removed in its entirety. There are still two bedrooms and a study at ground floor level, and the removal of a staircase would free up more of the ground floor for bedroom accommodation if required. This could be effected by way of condition attached to any grant of planning permission – requiring submission of revised roof plans for the agreement of SDCC.
- 7.2.3. I would see no difficulty with the detached garage. The demolition of the existing modern garage on the site, which is of no architectural merit, would be acceptable. It is built against the existing printing business building within the grounds of Ballyroan House. A condition should be attached to any grant of permission requiring sealing of the exposed wall of the printing business and any necessary repairs to the roof structure which might result from demolition of the garage on the appeal site.

7.3. **Water**

7.3.1. Water Supply

It is proposed to connect to the public watermain network. There was no objection from Irish Water to this arrangement.

7.3.2. Foul Waste

It is proposed to connect to the public foul drainage network. There was no objection from Irish Water to this connection.

7.3.3. Surface Water

The additional information submission of 9th April 2018, provided results of percolation tests carried out within the rear garden of no. 25, and also details of the proposed soak-way to deal with surface run-off within the site. SDCC was satisfied with the proposals put forward. There is no proposal to discharge surface water to the surface water network – although the long sloping driveway to this house, notwithstanding that it is to be provided with permeable paving – ultimately would discharge surface water onto the cul de sac.

7.3.4. Flooding

There is no evidence of any flooding on this site. Flood maps indicate that the site is not prone to flooding. It slopes very gently downhill from southwest to northeast,

7.4. **Access & Parking**

It is proposed to access the site from the turning head of the cul de sac which serves no. 25, and three other houses. There is no kerb-side parking on this turning area – owing to the number of vehicular access points off it. However, all houses have large curtilages which provide for sufficient off-street parking. The proposed creation of an additional vehicular access will not result in the creation of traffic hazard or obstruction of road users. There is a new double-garage proposed for the new house, together with ample on-site parking and turning. The existing house on the site will have ample on-site parking remaining, following the splitting of the site into two.

7.5. Other Issues

7.5.1. Financial Contribution

Given that planning permission was refused by SDCC, there is no reference to payment of a development contribution. Should the Board be minded to grant planning permission, it would be appropriate to attach a condition requiring payment of a development contribution in accordance with the Development Contribution Scheme in force. Given also that there are proposed alterations involving creation of two new entrances and connections to watermain and public foul sewer, it would be appropriate to attach a condition requiring a bond for any damage to the road/footpath network.

7.5.2. Naming & Numbering

A condition should be attached to any grant of planning permission to issue from the Board, in relation to numbering of the proposed new house.

7.5.3. Social & Affordable Housing

Due to the size of the proposed development, it is not liable to the provisions of Part V of the Planning and Development Act, 2000 (as amended).

7.5.4. Construction Hours

Hours of construction should be limited by way of condition attached to any grant of planning permission, to safeguard the residential amenities of property in the vicinity.

8.0 Recommendation

I recommend that permission be granted for the Reasons and Considerations set out below, and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to, the zoning of the site for residential use, and the infill nature of the proposed back-garden development, it is considered that, subject to compliance with the attached conditions, the proposed development would not injure the amenities of property in the vicinity and would 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, as amended by the further plans and particulars submitted to South Dublin County Council on 9th April 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The entire first floor of the proposed house shall be omitted. Revised plans to show a replacement roof, not higher than the roof of the ground floor of the dining/living/kitchen section of the proposed house, shall be submitted to the planning authority, and written agreement obtained, prior to commencement of any construction on the site.

Reason: In the interest of the residential amenities of the occupants of no. 35 Templeroan Downs and no. 45 Ballyroan Heights, and of the residential amenities of potential future occupants of the permitted housing development to the west (within the curtilage of Ballyroan House); where it is considered that the proposed first floor accommodation would be visually obtrusive and overbearing, and would result in overlooking and overshadowing of adjoining private amenity space and proposed private amenity space.

3. The surface water soakway shall be installed and maintained to the satisfaction of the planning authority.

Reason: in the interest of orderly development and public health.

4. Upon demolition of the existing garage on the site, the exposed wall of the adjoining print workshop (if still standing at the time) shall be made weatherproof and any damage caused to the roof shall be made good.

Reason: In the interest of the amenities of adjoining property.

5. All service cables associated with the proposed development shall be located underground.

Reason: In the interest of visual amenity.

6. A 2m high screen wall or solid timber fence shall be erected along the curtilage of the reduced area rear garden of no. 25 Ballyroan Heights.

Reason: To protect the residential amenities of existing and future residents of no. 25 Ballyroan Heights.

7. Proposals for a house numbering scheme shall be submitted to the planning authority, and written agreement obtained, prior to first occupation of the new house.

Reason: In the interest of orderly development.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interests of sustainable waste management.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 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.

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.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the road and footpath, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory restoration of the public footpath and road in the interest of residential amenity and traffic safety.

**Michael Dillon,
Planning Inspectorate.**

15th August 2018