



An
Bord
Pleanála

Inspector's Report ABP-301848-18

Development	Alterations to 4 No. houses, sites 15, 17, 21 & 34, comprising an additional velux rooflights on roadside elevations and repositioning of a gable first floor window as a result of internal layout changes to the previously approved 5 bedroom detached A2 house type.
Location	Clairville Lodge, Streamstown Lane, Malahide, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F18A/0151
Applicant(s)	Maybury Lane Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Paul Evans
Observer(s)	None
Date of Site Inspection	14 th September 2018
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 3.03 ha, is located on the eastern side of Carey's Lane, off Streamstown Lane, on the southern outskirts of Malahide, Co. Dublin. The appeal site is irregularly shaped, and comprises a residential development known as Clairville Lodge, which is currently under construction. A number of houses in the north western corner of the site have been completed and occupied, while the remainder of the development is at varying stages of completion.
- 1.2. The surrounding area retains a semi-rural character, with narrow roadways, mature planting and detached houses of varying types and sizes. The houses that are under construction in Clairville Lodge comprise a mix of semi-detached and detached houses.

2.0 Proposed Development

- 2.1. The proposed development consists of alterations to 4 No. houses within the permitted residential development known as Clairville Lodge, which as noted above is currently under construction. The finished development will consist of 34 No. houses and a creche.
- 2.2. The proposed alterations consist of an additional velux rooflight and repositioning of a gable first floor window as a result of internal layout changes to the previously approved 5 bedroom detached A2 house type. The house numbers affected by the proposed development are Nos. 15, 17, 21 and 34.
- 2.3. House Nos. 15 and 21 appear to be nearing completion, while No. 17 and 34 are at an early stage of construction.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Fingal County Council decided to grant permission, and the following summarised conditions are noted:

- C2: Conditions of earlier permissions for the residential development shall be complied with in full.

- C3: Permission shall be valid up to 30th November 2020 to coincide with earlier permissions.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's report can be summarised as follows:

- Proposed works are consistent with the RA zoning objective.
- Proposed amendments are minimal and do not materially alter the façade of the dwellings concerned.
- Proposed amendment to first floor window will not give rise to any overlooking of opposing windows.
- There is a c. 48m separation distance from the nearest dwelling in Clairville Lodge to the rear boundary of Beech Lodge. This separation distance, together with the roof light being located in the side elevation of the dwellings will not give rise to any significant overlooking of the boundary of Beech Lodge.
- There is currently an enforcement file open relating to Condition 11, however it is not considered that this application for a minor non-related is relevant to this matter, which is regarding the provision of playground equipment.
- Proposed development is in keeping with the pattern of development in the surrounding area and will not detract from residential amenity.

3.3. Other Technical Reports

- None.

3.4. Prescribed Bodies

- None.

3.5. Third Party Observations

3.5.1. Two third party observations were submitted. The issues raised were as per the appeal as well as the following:

- Applicant is non-compliant with condition 11 attached to permission PL06F.245240 (Reg. Ref. F14A/0483) and FCC has opened an enforcement file and issued a Warning Letter. Permission should not be granted until the non-compliance is rectified.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. **PL06F.245240 (Reg. Ref. F14A/0483):** Permission granted for construction of 32 No. detached dwellings, creche and associated development.
- 4.1.2. **Reg. Ref. F16A/0424:** Permission granted for alterations to permitted development comprising various design changes.
- 4.1.3. **Reg. Ref. F17A/0177:** Permission granted for alterations to permitted development, comprising elevational changes.
- 4.1.4. **Reg. Ref. F17A/0208:** Permission granted for alterations to permitted development, comprising provision of two additional houses, changing of house types, repositioning of houses and roads and associated development.

4.2. Surrounding Area

- 4.2.1. **Reg. Ref. F17A/0056:** Permission granted for additional dwelling at Beech Lodge.

5.0 Policy Context

5.1. Fingal Development Plan 2017-2023

- 5.1.1. The appeal site is zoned 'RA', to provide for new residential communities subject to the provision of the necessary social and physical infrastructure. It is also within a designated Masterplan area.
- 5.1.2. Objective MALAHIDE 11 is to prepare and/or implement the Streamstown Masterplan during the lifetime of this Plan. It states that the main elements to be included in the Streamstown Masterplan are as follows, but that the list is not intended to be exhaustive:

- Facilitate low density residential development reflective of the character of the area.
- Protect and preserve trees, woodlands and hedgerows within the Masterplan area.
- Preserve the tree lined approach to Malahide along the Dublin Road.
- Facilitate high quality sustainable development that protects and enhances the sensitive historic and natural setting of Auburn House and integrates new development with the conservation and preservation of the Protected Structure, its curtilage and protected trees.
- Retain visual corridors to/from Auburn House through the establishment of a visual buffer to the east of Auburn House.
- The area for development north of Auburn House is considered a sensitive development zone, whereby a maximum ridge height of 6m should be applied.
- Provide for a pedestrian / cycle route along the Auburn House Avenue to Malahide Road.
- Ensure pedestrian connectivity between Auburn House Avenue and Abington/Gaybrook/Castleheath.
- The lands will be the subject of a detailed flood risk assessment.

5.2. **Streamstown Local Area Plan 2009-2014**

- 5.2.1. The appeal site is located within the area subject to the provisions of the Streamstown Local Area Plan 2009-2014, the life of which has been extended to 2019.

5.3. **Natural Heritage Designations**

- 5.3.1. The appeal site is not located in or in the immediate vicinity of any sites with a natural heritage designation. The closest such sites are the Broadmeadow/Swords Estuary SPA (Site Code 004025) and Malahide Estuary SAC (Site Code 000205), c. 1.8km to the north, and Baldoyle Bay SPA and SAC (Site Codes 004016 and 000199, respectively), c. 3.7km to the south east. Both Malahide Estuary and

Baldoyle Bay are also pNHAs. Feltrim Hill pNHA is located c. 0.4km to the south west of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was lodged by Paul Evans. The issues raised in the appeal can be summarised as follows:

- A key principle of the Streamstown Local Area Plan 2009, extended to 2019, is to provide protection to the residential amenity of existing housing.
- Appellant's property, Beech Lodge, is given specific protection under Section 5.3.2 of the LAP. This states that no development shall take place within 11m of the property boundary of Beech Lodge, only dormer type dwellings with a max. height of 7m will be permitted and no habitable rooms with windows or roof lights at 1st floor level will be permitted overlooking Beech Lodge.
- Protection was given as the LAP Planners recognised that the site was elevated and would overlook Beech Lodge.
- Developers argued under previous application that they had moved the houses to between 30 – 50m from the boundary and that the other conditions did not apply. Despite appellant's appeal, he was not successful in achieving this protection.
- Approved houses have a ridge height of 9.31m with multiple windows at first floor and attic level overlooking his property. This has greatly affected his privacy and value of his property.
- Appellant has subsequently received planning permission for an additional property on his western boundary adjacent to Clairville Lodge and these windows will have an impact on this property.
- The Board is asked to refuse permission for the design change.

- One of the Objectives of the LAP was the connection of existing houses to the foul sewer. However, appellant cannot connect to pressurised foul sewer for technical reasons.
- LAP Objectives have been ignored.
- The Board is asked to clarify the exact distance between the six individual houses and the ditch on the eastern boundary of Clairville Lodge.

6.2. Applicant Response

6.2.1. A response to the appeal was submitted on behalf of the applicant by Hughes Planning and Development Consultants. The issues raised can be summarised as follows:

- Residential development has been approved on the appeal site. Both FCC and the Board have accepted that Clairville will not impact on the amenities of the appellant.
- Proposed alterations are minimal and will have no impact on the appellant's site.
- The section of the LAP which relates to Beech Lodge is in respect of development immediately adjacent to the western boundary of Beech Lodge. The proposed dwellings are not immediately adjacent and this objective does not readily apply to the proposed development.
- Development Plan generally requires 22m separation distance between directly opposing first floor windows. Separation distance in this instance is c. 70m from the opposing first floor windows of Beech Lodge, and c. 48m from the site boundary.
- The Board has previously accepted that this 70m separation distance is adequate.
- Ridge heights of houses is approved and no change to this is proposed. The Board's Inspector considered that the 7m maximum ridge height did not apply, given the separation distances.

- The proposed development consists of the repositioning of an obscure glazed gable window by 500mm and a velux rooflight on the side of the house, bringing daylight to a stairwell. Neither windows is on the eastern elevation facing the appellant's property. Due to their nature, neither window can result in overlooking of any property.
- No changes to ground level are proposed. The Planning Authority and the Board have already deemed the site levels and topography to be acceptable.
- Proposed development will not impact on the appellant's permitted development (Reg. Ref. F17A/0056). The appellant's proposed new dwelling will have a greater impact on Beech Lodge than the Clairville development.

6.3. **Planning Authority Response**

6.3.1. The Planning Authority's response can be summarised as follows:

- Proposed development will not detract from adjoining residential amenity, subject to compliance with the conditions.
- The Board is asked to uphold the decision of the Planning Authority and include a financial contribution condition.

6.4. **Observations**

- None.

6.5. **Further Responses**

- None.

7.0 **Assessment**

7.1. I consider that the key planning issues to be assessed are as follows:

- Residential and visual amenity.
- Other issues.
- Appropriate Assessment.

- Environmental Impact Assessment.

7.2. Residential and Visual Amenity

- 7.2.1. The proposed development consists of relatively minor alterations to 4 No. permitted houses within a residential development of 34 No. houses, which are at varying stages of construction/occupation. The proposed alterations comprise the addition of a velux rooflight and the repositioning of a gable window at first floor level.
- 7.2.2. The only proposed/repositioned window which faces the appellant's property is the proposed velux window in house No. 15. This velux window is located at a high level, serving a stairwell, and is at a distance of c. 95m from the boundary with the appellant's property. Having regard to the nature of the window and the separation distance, I do not consider that it results in any additional overlooking or loss of privacy to the appellant's property, beyond that which may already exist as a result of the permitted development. None of the other windows to which this appeal relates have the potential to impact on the appellant's residential amenity due to their orientation and distance from the appellant's property.
- 7.2.3. The appellant also raises a number of issues with regard to the permitted development, include ridge height, foul sewer issues and overlooking from other windows. None of these issues relate to the proposed development, and they are not considered to be relevant matters in assessing this appeal.
- 7.2.4. With regard to the potential impact of the proposed development on the residential amenities of existing/future occupants of the Clairville Lodge development, I note that the repositioned gable windows will serve a bedroom. The applicant, in responding to the appeal, states that these windows will feature obscure glazing, however this is not clear from the elevation drawing submitted, although it is noted on the floor plan drawing. Since these are essentially narrow secondary windows serving the bedroom, with a larger main window located on the rear elevation, I consider that the use of obscure glazing on the gable window is acceptable. In the interests of clarity, I recommend that a condition requiring obscure glazing should be included, should the Board be minded to grant permission. With regard to the proposed roof lights, as noted above, these are high level openings serving a

stairwell, and I do not consider that they result in any potential for significant overlooking or loss of privacy to any existing or permitted dwellings.

- 7.2.5. In conclusion, I am satisfied that the proposed development will not result in any significant negative impacts on the residential or visual amenities of the area.

7.3. **Other Issues**

7.3.1. Development Contributions

- 7.3.2. The Planning Authority's response to the appeal asks the Board to include a section 48 development contribution. Having regard to the nature of the proposed development, I do not consider that the issue of a development contribution arises. I note that the Planning Authority's decision did not include a development contribution condition, and therefore the request contained in their response to the appeal may have been included in error.

7.3.3. Duration of Permission

- 7.3.4. Condition 3 of the Planning Authority's decision limited the duration of the permission to 30th November 2020 to coincide with the 'parent' permission for the development (Ref. PL06F.245240; Reg. Ref. F14A/0483). I consider this condition to be reasonable and appropriate in the interests of orderly development, and I recommend that it be included, should the Board be minded to grant permission.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development, which comprises minor alterations to four permitted residential units, and noting the separation distances from the nearest Natura 2000 sites, I am satisfied that 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.

7.5. **Environmental Impact Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, and the nature of the receiving environment, there is no real likelihood of significant effects on the

environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objectives for the area and the pattern of development in the area, 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 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, 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 repositioned first floor windows on the gable elevations shall be glazed with obscure glass.

Reason: To prevent overlooking of adjoining residential property.

3. This permission shall be valid up to and including the 30th November 2020.

Reason: To coincide with permission for the residential development granted under appeal reference number PL06F.245240 (Reg. Ref. F14A/0483).

4. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted under appeal reference number PL06F.245240 (Reg. Ref. F14A/0483), as amended by Reg. Refs. F16A/0424, F17A/0177 and F17A/0208, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.

Niall Haverty
Planning Inspector

17th September 2018