



An
Bord
Pleanála

Inspector's Report ABP – 302113 – 18

Development

Construction of a detached dwelling, a detached games room & car port to the rear of an existing dwelling & all associated site works.

Location

14 Park Villas, Castleknock, Dublin 15.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

FW18A/0003.

Applicant

Eamon Balfe.

Type of Application

Planning Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellants

Liam & Patricia Lacey.

Observers

None.

Date of Site Inspection

13th September, 2018.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site is located at No. 14 Park Villa in the suburb of Castleknock which lies to the north west of Dublin's city centre.
- 1.2. The site itself is located on the northern side of Park Villas a small cul-de-sac lane containing a mixture of semi-detached, single storey, dormer and 2-storey semi-detached dwellings. It contains a dormer style semi-detached dwelling. To the rear of this dwelling there is a small single storey shed structure that bounds the eastern boundary and is situated near the rear elevation. In addition, there is a modest single storey timber shed located towards the end of the rear garden. The site boundaries include a timber panelled fence running along the northern boundary, a concrete wall along part of the western boundary and a mixture of well-maintained hedges of varying heights. Towards the rear boundary there is a mature apple tree and birch tree. Adjoining the roadside boundary there is a restricted in width pedestrian footpath.
- 1.3. In the immediate vicinity of the site there are examples infill residential development including examples of backland development. These later infill developments appear to be mainly single storey and dormer 2-storey in their built form.

2.0 Proposed Development

- 2.1. The application as lodged with the Planning Authority on the 15th January, 2018, seeks planning permission for: -
 - Subdivision of existing rear garden to provide a detached 3-bedroom 2-storey (7.995-m in ridge height) dwelling house (c.254-sq.m.).
 - Detached timber clad and framed games room with car port attached (c. 36-sq.m.).
 - Off-street car parking; revised vehicular access; provision of a setback from public road, internal driveways and associated internal boundaries.
 - Detached garage/shed in the front garden of the existing dwelling (c. 19.8-sq.m.).

2.2. The response to the Planning Authority's additional information request was received on the 31st May, 2018. It includes the following amendments: -

- Ridge height reduced to 7.7m.;
- Eastern and western elevation setbacks increased to 1.7m and 1.65m at the nearest point respectively;
- Width of the games room reduced by 1m. (c26.5m² floor area);
- Terrace adjoining the games room and proposed dwelling enlarged by 1.0-m.;
- Omission of shed/garage structure to the front of the existing dwelling; &
- Boundaries, access and egress arrangements to serve the existing and proposed dwellings revised.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant planning permission subject to 15 conditions. Conditions of note include: -

- Condition No. 4 (i): Three first floor windows omitted on the eastern elevation.
- Condition No. 5(i) & (ii): Omits the originally proposed detached garage/shed in the front garden and the use of the proposed detached games room/car port is restricted.
- Condition 12: Revises internal layout, boundaries, access and egress.

3.2. Planning Authority Reports

3.2.1. The Planner's Report reflects the Planning Authority's decision. It considered that the revised dwelling would be sympathetic to its surrounding neighbours and that it would not be injurious to the residential amenity of existing occupants of the area subject to a condition omitting three windows on the eastern elevation which were considered would give rise to overlooking.

3.2.2. Other Technical Reports

- **Planning & Strategic Infrastructure Department – Water Services Section:**
No objection.
- **Planning & Strategic Infrastructure Department – Transportation Planning Section:** Their final report concluded with no objection to the amended development subject to the inclusion of the requirements set out in Condition No. 12 of the grant of permission.

3.3. Prescribed Bodies

- **Irish Water** – No objection.

3.4. Third Party Observations

Four submissions were received from adjoining and neighbouring property owners to the initial development sought. The issues raised are covered in the grounds of appeal.

4.0 Planning History

4.1. Site: -

- **P.A. Ref. No. F07A/0320:** Permission was **granted** for the construction of a detached bungalow with a stated floor area of 122-sq.m. and attic storage to the rear of the existing dwelling.
- **P.A. Ref. No. F06B/0745:** Permission was **granted** for a 2-storey extension.
- **P.A. Ref. No. F06B/0325:** Permission was **granted** for a 2-storey extension with a car port.

4.2. In the Vicinity: -

- **P.A. Ref. No. FW13A/0105:** Permission was **granted** for a detached 2-storey dormer bungalow with dormer windows to the rear at No. 3 Park Villas.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'RS' which has an aim to: "*provide for residential development and protect and improve residential amenity*". Chapter 3 of the Development Plan deals with residential development.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The adjoining neighbour has appealed the decision of the Planning Authority to grant permission for the following reasons: -
- A 2-storey dwelling is excessive in scale; height; and, mass, at this location. If permitted it will be visually injurious to the amenities of neighbouring properties.
 - The revised height would be visually overbearing and oppressive when viewed from the appellant's property.
 - Should the Board be minded to grant permission it is requested that a condition requiring a 2m high capped concrete wall along the appellant's boundary be included to safeguard their established residential amenities.
 - The first-floor windows on the northern elevation should be omitted to prevent overlooking.
 - The proposed development would result in a loss of daylight.
 - The proposed development would be seriously injurious to the appellant's residential amenities and for this reason would be contrary to the residential zoning of the area.

6.2. Applicant's Response

- 6.2.1. The applicant's response is summarised as follows: -
- The revised design does not result in overlooking of adjoining properties.

- The dwelling's height is not out of scale with existing development in the area.
- This proposal is consistent with the site's zoning.
- The potential impact upon the appellant's sunken solarium would be minimal.
- The applicant accepts the Planning Authority's requirements of removing 1st floor level windows on the eastern side; and, the restriction on future development on the proposed subdivided infill site. The applicant is also willing to provide a 2-meter high boundary wall along the northern boundary.
- The appellant's interpretation of planning decisions in the surrounding area is not agreed with and all applications should be considered on their own merits.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response is summarised as follows: -

- The proposed development in its revised form is considered acceptable and it would not unduly impact on amenities of the area.
- Removal of additional first floor level windows and roof lights is not warranted.
- No objection to a 2-meter high concrete wall along northern boundary.
- It is requested that Condition No. 15 be included in any grant of permission.

6.4. Observations

6.4.1. None.

6.5. Further Responses

6.5.1. The Third Party response reiterates many of the concerns raised in their appeal submission. The additional points are summarised as follows: -

- It is not accepted that the proposed dwelling would not be fully visible from the appellants property.
- The balance between protecting the existing amenities and new residential infill has not been achieved.

- The site is not a corner site and it is therefore inappropriate to have regard to development criteria for this type of development.

7.0 Assessment

7.1. Introduction

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise; however, the issue of appropriate assessment also needs to be addressed. The substantive issues can be dealt with under the following headings: -

- Principle of the Proposed Development
- Residential Amenities
- Visual Amenities
- Other Matters

7.1.2. For clarity, the following assessment is based on the proposed development as revised by the applicant in their additional information response received by the Planning Authority on the 31st May, 2018. This revised design lessens the potential for adverse amenity impacts on the surrounding area from the proposed development.

7.2. Principle of the Proposed Development

7.2.1. The development site lies within an area zoned 'RS' which aims to: "*provide for residential development and protect and improve residential amenity*". Under this land use zoning objective residential development is considered to be generally acceptable in principle subject to the proposed development being satisfactory in terms of compliance with development plan standards; being acceptable in terms of its impact on the visual amenities of the area; and, the established residential amenities of properties in its vicinity.

7.3. Residential Amenities

7.3.1. In my view the potential impacts to consider from the proposed development are overshadowing; overlooking; and, visual intrusion. These impacts are discussed separately below.

7.3.2. **Overshadowing:**

The appellants raise concerns that the proposed development will impact on the level of daylight and in turn the level of overshadowing reaching their property, No. 17A Park Villas, with concern expressed for the potential impact on a sunken solarium located in the south-eastern corner of their property which abuts part of the northern boundary of the site.

In relation to the shadow analysis that has been provided on file I note that it has been prepared in accordance BRE Site Layout Planning for Daylight & Sunlight, A Guide to Good Practice, 2nd Edition, with regard had to analysing the proposed development against Section 3.3.17 of this document. This analysis is further added to by the applicant in their response to the Board. It indicates that the proposed development, if permitted, would result in minimal impact on adjacent properties to the east, west and north. In addition, in terms of the appellant's rear outdoor amenity space, it indicates that the additional overshadowing would be minimal, and this includes the impact on the appellants solarium.

As such I consider overshadowing is not a reason to conclude that the residential amenities of adjoining properties would be seriously injured by way of the proposed development and in turn would be contrary to the land use zoning of the area.

7.3.3. **Overlooking:**

The appellants have expressed a concern that the proposed first floor level would give rise to overlooking, actual and perceived. I consider that some level of overlooking is to be expected in suburban environments like this that include built forms with glazing above ground floor. I observed during my site inspection that there is an established level of overlooking already present in the vicinity of the site.

I consider that the design has sought to minimise the potential of adverse overlooking from the first-floor level of the proposed new dwelling. This is evident in that rooflights are placed at such a height and location that it is not possible for future habitants to gain views out over neighbouring properties. They do however provide sky views, light and ventilation which add to the quality of its interior amenity.

I acknowledge that the windows on the southern elevation serving rooms labelled 'Bedroom 2' and the 'Master Suite' are the most substantial in terms of their size dimensions; notwithstanding, they are placed over 22-meters setback from the

dormer window in the roof structure of No.14 Park Villas, the existing dwelling on the site. In addition, the application includes outdoor recreational buildings which together with their height and proposed subdividing boundary would ensure that the overlooking and privacy of occupants of No. 14 Park Villas is of an acceptable standard.

Condition No. 4 of the Planning Authority's decision omits three windows in the eastern elevation. I agree with the Planning Authority on the basis that if these windows were openable or should the glazing be changed from obscure glazing to transparent, they would despite their restrictive in size dimensions give rise to direct overlooking of the rear of No. 13 Park Villas, the adjoining property to the east.

I acknowledge that the proposed glazing at first floor level may give rise to the perception of being overlooked but the design of the first-floor level is such that it would give rise to minimal actual overlooking over and above the existing context on the properties to the east, west and north due to the fact that they are at heights and locations relative to ground level that occupants using the proposed dwelling would be unable to see out of them.

Should the Board should be minded to grant permission for the proposed development I recommend that a similar condition to that of Condition No. 4 be imposed. This condition I note also requires all bathroom, WC and en-suite windows to be fitted and maintained with permanent obscure glazing which is a standard requirement. Subject to the inclusion of such a condition I am satisfied that the proposed dwelling would not result in any seriously injury to properties in its vicinity by way of overlooking.

7.3.4. Visual Intrusion

There is also a level of graduation between the proposed dormer dwelling's design and its juxtaposition with the built elements associated with it, i.e. the single storey games room, car port and the eastern boundary associated with southern outdoor terrace area. Together the proposed design seeks to achieve a courtyard and an introverted amenity space that would benefit from its southern aspect and orientation. This space benefits from the arrangement of built structures within the proposed subdivision in terms of maximising daylight and ensuring a good standard of privacy for future occupants.

In terms of the positioning of the proposed 2-storey in built form dwelling the separation distance between the northern boundary is 2.7m, the western boundary 1.9m and the eastern boundary is 1.7m at their nearest points. In terms of separation distance, the appellant's property at its nearest point is 10.8m and the separation distance to other adjoining properties range from 12.4 to 26.8m. Within such an urban context I consider that such separation distances are not unacceptable, and I consider that the site is of a size whereby the provision of an additional dwelling will make more sustainable use of serviced urban land.

I consider the design an effective architecturally sensitive solution for this backland site and I am not convinced that significant adverse visual impact would arise from the proposed development if it were permitted.

7.3.5. Other Matters

Pedestrian Linkage: No. 14 Park Villas is served by a restricted in width cul-de-sac lane with limited and *ad hoc* pedestrian sections of pedestrian pathways. There is an opportunity to not only provide safe access and egress to accommodate the proposed detached dwelling and the existing dwelling but also to improve the existing pedestrian links from Park Villas to Pecks Lane to the west. Should the Board be minded to grant permission I recommend that it include a condition reiterating the requirements of Condition No. 12 of the Planning Authority's grant of permission which allows for a more pedestrian friendly footpath along the roadside boundary alongside improved access and egress from the site onto the public road network and more appropriate internal and roadside boundary treatments.

Northern Boundary: The appellants request in the event of a grant of permission that the Board require by way of condition the provision of a 2-meter in height concrete capped wall along the northern boundary. The applicant and the Planning Authority raise no objection to this. I acknowledge that such a boundary would be more robust and higher than that present. It would therefore improve the levels of privacy between the two properties and as such I raise no objection to its provision. Notwithstanding I consider such a treatment would also be useful along the eastern boundary for the same reasons.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development 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 arise.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted subject to conditions and for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan, 2017-2023, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the surrounding area. The proposed development would, therefore, 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 on the 31st day of May 2018, 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 proposed development shall be amended as follows:

- a) The three windows at first floor level on the eastern elevation shall be omitted.
- b) All bathroom, WC and en-suite windows shall be fitted and maintained with permanently obscured glazing.
- c) A revised internal layout that enables vehicles to exit the property in forward gear.
- d) The front boundary shall be set-back parallel 2m from the road edge over the full length of the property to provide footpath connectivity.
- e) The internal dividing boundary walls between the driveways shall not exceed 900mm over the last 3m from the back of the public footpath.
- f) The footpath and kerb along the public road shall be dished.
- g) The boundary walls and hedge to the front of the new dwelling and the existing dwelling adjacent to the public footpath shall not exceed a height of 0.9m.
- h) A 2-meter in height concrete capped and plastered boundary wall shall be erected along the northern and eastern boundaries.

Revised drawings showing compliance of these requirements shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.

Reason: In the interests of residential amenity.

- 3. This permission omits the originally proposed detached garage/shed structure in the existing front garden of No. 14 Park Villas.

Reason: In the interest of clarity and in the interest of visual amenity.

- 4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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. (i) The proposed dwelling shall be occupied as a single residential unit and its ancillary buildings shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

(ii) The proposed detached games room and car port shall be used solely for purposes incidental to the enjoyment of the main dwelling house and shall not be used for human habitation, multiple occupancy living units, non-residential uses, carrying out of any trade, trade business or other commercial activity.

Reason: In the interest of clarity; and, to restrict the use of the dwelling and the games room in the interest of residential amenity.

6. 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.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

8. The proposed dwelling shall be numbered as No. 14A Park Villas. In the event that this number already exists then an acceptable house numbering scheme shall be submitted for the written agreement of the Planning Authority prior to the first occupation of the dwelling.

Reason: In the interests of orderly development and in the interests of urban legibility.

9. (i) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of soil, rubble or other debris on adjoining roads during the course of the works.

(ii) Any damage to the surrounding public road shall be made good to the satisfaction of the Planning Authority.

Reason: In the interests of orderly development and in the interests of public safety.

10. The construction stage 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 include details of construction waste measures, noise management measures, dust control measures, arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of orderly development, amenity, safety and sustainable development and sustainable waste management.

11. 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.

Patricia-Marie Young
Planning Inspector

15th October 2018.