



An
Bord
Pleanála

Inspector's Report ABP-302314-18

Development	Demolition of the existing single-storey bungalow and construction of two semi-detached houses
Location	16B, Kenilworth Road, Dublin 6
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3086/18
Applicant(s)	Linda and Paul Brennan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Linda and Paul Brennan
Observer(s)	1. Philip O'Reilly 2. Ken Morley
Date of Site Inspection	16 th November 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1.1. The appeal site is located on Kenilworth Road and on site is a large detached bungalow. The west side boundary faces onto Kenilworth Lane.
- 1.1.2. The area is primarily characterised Victorian houses along residential roads which were developed in the late nineteenth century. Several of these roads have rear access lanes off which some mews development, lock ups and rear entrances to the houses are located.

2.0 Proposed Development

- 2.1. Demolition of the existing single-storey bungalow and construction of two semi-detached houses

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason related to the bulk and height, and to the impact on surrounding residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority. Points of note are as follows:

- Principle of a contemporary approach is acceptable.
- Concerns remain in relation to overdevelopment, having regard to previous decisions by An Bord Pleanála.
- Bungalow does not provide a significant contribution to the streetscape.
- Height of the development has increased since previous refusal.

- Would have a detrimental impact on the setting of the protected structures on Kenilworth Road.
- No meaningful open space has been provided.
- Recommendation to refuse permission.

3.2.2. Other Technical Reports

Drainage – No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. The issues raised are covered within the observations on the appeal.

4.0 Planning History

Appeal Ref 249342 (3441/17) – Refuse – Two houses – for three reasons related to (i) design and residential amenity (ii) overdevelopment and poor quality open space (iii) flooding.

Appeal Ref (6714/07) – Refuse – Two houses. For two reasons related to (i) design and residential amenity (ii) Poor quality open space.

2939/07 – Refuse – Two houses – For three reasons related to (i) design, overdevelopment and residential amenity (ii) contrary to policies on development in side gardens, impact on amenity (iii) overdevelopment.

Appeal Ref 207087 (4967/03) – Refuse – Outline permission for 4 units for three reasons relating to (i) lack of open space (ii) impact on amenity (iii) impact on amenity as a result of building set forward of building line.

5.0 Policy Context

5.1. Development Plan

5.1. Development Plan

Dublin City Development Plan 2016-2022.

5.1.1. The site is located in an area that is zoned Objective Z2 (To protect and improve the amenities of residential conservation areas) under the provisions of the Dublin City Development Plan 2016-2022. Under this land use zoning objective, residential development is a permissible use.

5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- Policy CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.
- Section 16.2.1 Design Principles.
- Section 16.2.2.2 Infill Development.
- Section 16.10.2 Residential Quality Standards – Houses– sets out standards to be achieved in new build houses.
- Section 16.10.3 Residential Quality Standards – Apartments and Houses.

5.1.3. The following Section 28 Ministerial Guidelines is of relevance to the proposed development.

‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (May 2009).

5.2. Natural Heritage Designations

5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Grounds of Appeal as submitted by the First Party are as follows:

Planning History

- No issue with an additional dwelling.
- Planning Authority and ABP Inspector recommended a grant/although it was ultimately refused by ABP.
- Applicants have made revisions in light of previous conditions/concerns of third parties/Inspector's report and ABP Decision.

Conservation Area/Protected Structures

- Use of materials to integrate with existing character and surrounding building.
- Building line and overall height follow the existing conditions of both its east and westerly neighbours.
- Use of landscaping.
- Replacement of the existing poor quality of the bungalow with a contemporary, high quality, energy efficient structure.

Other Issues

- Proposed development is in line with Development Standards.
- Is sustainable urban development.
- There is precedent in the area for other contemporary designs (photos and examples of same are set out).

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. Observations have been received from:

1. Philip O'Reilly (18 Grosvenor Place, Rathmines, Dublin 6).

- No material difference between this proposal and the proposal ABP refused less and a year ago.
- The issues and concerns remain.
- Is not in keeping with historic pattern of development.
- Would set an undesirable precedent.
- Overdevelopment of the site/bedrooms located in the basement.
- Issues with flooding remain/previous fatalities and accidents related to flooding/area has been subject to repeated flooding events.
- Does not meet requirements of open space
- Impact on amenity/overshadowing/overlooking
- Design is not in keeping with the area.
- Precedents are not relevant.
- Basements are out of keeping with area/no basement in neighbouring buildings.

2. Ken Morley (Kenilworth Villa, Kenilworth Road, Dublin 6)

- Will have a detrimental impact on Kenilworth Villa.
- Many of the concerns in relation to previous refusal are evident.
- Impact on amenity/overshadowing
- Incorrect dimensions on drawings
- Overdevelopment of the site
- Proposed basement and flooding issues.

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development

- Design and Conservation/Impact on protected structures
- Impact on Amenity
- Flooding
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Principle of Development

- 7.2.1. The site is zoned 'Z2' under the Dublin City Development Plan, 2016-2022. The stated objective for 'Z2' zoned land is "to protect and/or improve the amenities of residential conservation areas". The principle of residential development is generally acceptable on 'Z2' zoned land, subject to safeguards.
- 7.2.2. As per previous applications, the principle of the demolition of the existing dwelling is acceptable, given the limited contribution it makes to the streetscape and it's relatively inefficient use of the site. The applicant has contended that the principle of a second dwelling on this site has never previously been questioned and I concur that this is the case, and the site could potentially accommodate a second dwelling, subject to a consideration of the issues below.

7.3. Design and Conservation/Impact on Protected Structures

- 7.3.1. Of key relevance to this current appeal is the most recent refusal on this site (Appeal Ref 249342), which was refused by the Board for three reasons, one of which related to *inter alia* the height, roof profile, fenestration and overall design, with a subsequent impact on the visual amenity of the area and the setting of adjacent protected structures.
- 7.3.2. The applicant has stated that changes have been made to the proposal in order to overcome the previous reasons for refusal. The observers on the appeal state that no material changes have been made.
- 7.3.3. It is my view that only minor modifications to the design have taken place since the previous refusal. The design approach is still very much contemporary, which is not an issue in itself, and there are examples of contemporary design in the area, including a recently constructed mews house on Kenilworth Lane West. However the overall appearance of the proposal is still much the same as before, with the main

alteration is the omission of the sloped roof profile linking the two structures. The pattern of fenestration is similar, with only minor modifications. The height of the unit adjacent to 16A Kenilworth Road has in fact increased, from 9.075m to 9.825m. While I understand that this is to bring the proposed dwelling into line with the eaves height of No. 16A, the overall result is to increase the overall scale and bulk of the proposal. A concession has been made in relation to the impact on Kenilworth Villa to the east, in that it has been pulled back from this boundary, but the impact on the overall bulk, scale and appearance is minimal.

7.3.4. As such, given previous concerns of the Board in relation to the inappropriateness of the design, I do not consider that sufficient changes have been made to the scale and appearance of the dwellings to overcome this reason for refusal.

7.4. Impact on Amenity

7.4.1. Reason No. 1 of the previous refusal (Appeal Ref 249342) also considered that the amenity of adjoining residential properties would be seriously injured by reason of overshadowing, and by reason of being visually overbearing.

7.4.2. While some concession has been made in relation to the impact on the western facing windows of Kenilworth Villa, by virtue of pulling the development back from this boundary, this change is minimal in my view. I also note that the proposed elevations do not show the side extension of Kenilworth Villa, and give an inaccurate representation of the relationship of the proposed development to this property. While the first floor rear returns have now been omitted, the impact on the rear gardens of Grosvenor Place will be similar, if not worsened, by virtue of the overall increase in height of the dwelling on the western boundary. It is unfortunate that no daylight/sunlight/overshadowing study has been submitted with the application.

7.4.3. The visual impact of the proposed development, and the overbearing nature of the development has, in fact, been exacerbated by the increase in height on the western boundary.

7.4.4. In conclusion I do not consider that the amendments to the proposal are sufficient to overcome the Board's previous concerns, as relates to surrounding amenity.

7.5. Development Standards

- 7.5.1. Reason No. 2 of the most recent refusal relates to the overdevelopment of the site and the poor quality and quantity of open space.
- 7.5.2. The revised proposal has omitted a car parking space to the front of the unit on the eastern boundary, adjacent to Kenilworth Villa. This has increased the useable area of open space associated with this unit. The first floor rear returns of both dwellings, which previously accommodated a bedroom, have also been omitted.
- 7.5.3. The Inspector's report in relation to the most recent refusal on this site (Appeal Ref 249342) recommended that the above changes (i.e. omission of the vehicular entrance/parking space to eastern unit, and the omission of the first floor rear returns) could be made by way of condition. The Board's direction makes it clear that the lack of private open space could be not be adequately addressed by way of condition. As such, while it is recognised that the applicant has sought to address the concerns in relation to the overall quantum of development, and the subsequent requirement for open space, these changes are not sufficient to overcome the Board's previous concerns in relation to this issue.

7.6. **Flooding**

- 7.6.1. Reason No. 3 of the previous refusal related to the provision of basements and the history of flooding events in this area, and it was considered that the proposal would increase the risk of flooding of nearby property. The Board direction in relation to the most recent refusal (Appeal Ref 249342) stated that the risk of flooding could not be mitigated by the proposed design measures. Basements have again been provided and the same mitigation measures are put forward, as per Section 3.6 of the Flood Risk Assessment Report (dated 8th June 2017). It is my view that, as per the previous refusal, that the provision of basements is unacceptable, given the previous Board direction in relation to same.

8.0 **Recommendation**

- 8.1. Refuse Permission.

9.0 Reasons and Considerations

1. Having regard to the location of the site within a residential conservation area, and in proximity to protected structures on Kenilworth Road, it is considered that the proposed development, by reason of its height, fenestration and overall design, would be visually incongruous and contrary to the visual amenities of the area, and would adversely affect the setting of these protected structures, and by reason of its bulk, height and proximity to adjoining properties on Grosvenor Road, would seriously injure the residential amenities of such adjoining property by reason of overshadowing and by reason of being visually overbearing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would constitute overdevelopment of the site and would result in a substandard form of residential amenity for future occupiers as a result of the poor quality and quantity of private open space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. By reason of the proposed excavation of basements at this location, in proximity to areas in which there has been a number of flooding events, the Board is not satisfied, notwithstanding the documentation submitted with the application and appeal, that the proposed development would not lead to a risk of exacerbating flooding of nearby property. The proposed development would, therefore, be contrary to the proper planning and development of the area.

Rónán O'Connor
Planning Inspector

19th November 2018