



An
Bord
Pleanála

Inspector's Report ABP-302373-18

Development

Demolition of garage & construction of 2-storey detached 3-bedroom house with pitched roof & all associated site works to side/rear of no. 39 St. Kevin's Park with access via existing avenue & existing western gates.

Location

39, St. Kevin's Park, Dartry, Dublin 6, D06 N998

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

WEB1263/18

Applicant(s)

Pauline and Ronan O'Connell

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Pauline and Ronan O'Connell

Observer(s)

1. Philip O'Reilly
2. Dan Coulcher and Paul Fyans
3. John Kehoe

Date of Site Inspection

12th November 2018

Inspector

Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located on the north-western side of St. Kevin's Park and relates to an area that is currently the side/rear garden of No. 39 St. Kevin's Park. There is a single storey garage structure on the site.
- 1.2. The surrounding area is primarily residential with relatively large two-storey redbrick dwellings to the east of the appeal site, with dwellings to the west of the appeal site presenting one and a half storeys to the street.

2.0 Proposed Development

- 2.1. Demolition of garage & construction of 2-storey detached 3-bedroom house with pitched roof & all associated site works to side/rear of no. 39 St. Kevin's Park with access via existing avenue & existing western gates.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for one reason as follows:

It is considered that that the proposed development, by reason of scale, roof form and siting on this side garden/corner site would be out of character with the pattern of development in the area, would adversely impact the surrounding residential conservation area and would set an undesirable precedent for similar, backland development. The proposal would seriously injure the amenities of residential properties in the vicinity and depreciate their value, and would therefore be contrary to the stated provisions of Dublin City Development Plan 2016-2022 and proper planning and sustainable development of the area.

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:

- Established building line will be effectively broken by facilitating such a large setback.
- Break in rhythm of the streetscape would be detrimental to the character of the area.
- Setbacks from side boundaries are minimal – feeling of restriction on the site /out of keeping with the surrounding area.
- Not characteristic of the dwelling styles in the area.
- Overall scale dominates its appearance from the front streetscape/impact on the conservation area/contemporary design.
- Inappropriate development/piecemeal development.
- Location, contemporary style is not considered to be appropriate and will be injurious to the amenities of surrounding properties and the wider conservation area.
- Recommendation to refuse.

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. Three submissions were received at application stage. The issues raised are covered within the grounds of appeal.

4.0 **Planning History**

3286/03 – Grant – side extension.

5.0 Policy Context

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 CHC4 – To protect the special interest and character of all Dublin’s Conservation Areas.
- Section 16.2.1 Design Principles.
- Section 16.10.10 ‘Infill Housing’
- Section 16.10.2 Residential Quality Standards ‘Houses’
- Section 16.10.8 Backland Development.

5.1.3. The following Section 28 Ministerial Guidelines are 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

The First Party Grounds of Appeal are as follows:

General

- Side garden of appeal site is unique to the street – more than double the area of neighbouring plots.
- 30m road frontage and double vehicular access to the public road.
- Variety of house types in the area as indicated by the submitted townscape analysis and views of the street (Appendix D)
- Not a traditional gap site/requires a site specific response.
- Design is site specific and will preserve amenity/no overshadowing/shadow analysis submitted/no impact on visual amenity.
- Dwelling will only be glimpsed when view approaches the dwelling to the east.

Character of the Conservation Area

- Dwelling is not a protected structure.
- Proposed dwelling integrates with the context in terms of its scale and use of materials notwithstanding its contemporary approach.
- Dwelling will conceal the powerhouse and chimney of St. Luke's Hospital to the rear of the site.
- Design employs pitched roofs and materials that are consistent with adjacent dwellings.
- Policy CHC4 welcomes contemporary architecture.
- Consistent with the Architectural Heritage Protection Guidelines for Planning Authorities.
- Proposed dwelling does not take away from the rhythm along the street, having regard to building line.
- Sense of openness/separation distance is maintained.
- House will be subordinate in scale to the existing dwelling and will be consistent in scale and form with the neighbouring dwellings to the south No.'s 37 and 38 St. Kevin's Park.

Impact on Amenity/Property Values

- There will be no overlooking, overshadowing and no injury to the visual amenity of the existing adjoining dwellings.
- High quality materials used.

Precedence and Backland Development

- Dwelling is located beside the existing dwelling/cannot be designated backland development.
- Design approach is bespoke to the site/would not set a precedent for other sites.

Appendices

- Appendix A – Notification of decision.
- Appendix B – Planning Report

6.2. Planning Authority Response

None.

6.3. Observations

6.3.1. 3 no. observations have been received from John Kehoe (38 St. Kevin's Park); D. Coulcher and P. Lyons (40 St. Kevin's Park) and Philip O'Reilly (18 Grosvenor Place, Rathmines, Dublin 6). These are summarised below:

- Refusal was a considered and comprehensive rejection of the proposal/support Council's decision.
- Decision is correct and reasonable
- Attractive Edwardian Houses of uniform setting and design.
- Fails to meet the zoning objectives for the area.
- Grounds of appeal do not put forward any amendment or modification to address the reason for refusal.
- Would have a damaging impact on the adjoining residents at No. 38 St. Keven's Park.
- St. Kevin's Park has a fine heritage streetscape.

- Z2 zoning to protect and/or improve the amenities of the residential conservation area.
- Incongruous proposal would be materially at odds with the Council's objective for St. Kevin's Park.
- Even a small number of contemporary schemes would overcome and destroy the reason for the ACA designation.
- Applicant's garden is by no means uniquely large/danger of precedent.
- There is a regularity in house types/building lines/uniform returns/use of materials/extensive gardens.
- No single mews or backland house/no houses of contemporary design
- Dominant pattern of houses fronting directly onto the street.
- Site is constrained.
- Proposed dwelling is to the rear of both the established building line and the existing house/both factors raise backland development concerns.
- There is insufficient detailing to speak of 'bespoke' or 'exceptional' design solutions.
- Excessive size has taken over a sizeable chunk of the rear garden of No. 39/Impact on amenity/property values.
- Project is out of place/squat footprint/breach of building line/shallow roof pitch/inappropriate selection of external finishes.
- Removal of long established features.
- House would be 32m from the street/considerable damage to the heritage streetscape/proposed house would be just 1.2m from client's property at No. 38.
- Site cannot accommodate a conventional house without impacting on amenity/incompatible with the Z2 zoning objective.
- Impact on the adjoining garden spaces/gardens would be directly overlooked by the windows on the first floor and patio doors/terracing on the ground floors of No. 39A/overshadowing.

- Existing mature chestnut tree is not a permanent feature/development will speed its demise.
- Shadow study omits the impacts in the morning/when shadow would most impact No. 38.
- Would lead to copycat proposals/set a precedent
- Neighbouring houses have comparable garden sizes.
- Support the decision of the council
- Scale of proposal is excessive/inappropriate
- Impact on rear gardens.
- Out of keeping with the streetscape.
- Siting is inappropriate
- Impact on Conservation Area.
- Little consideration in relation to impact on amenities of surrounding properties.
- Overshadowing/Shadow study is not accurate
- Twice as high as the existing garage and is half the distance from the party boundary wall.
- No views of property from adjoining garden at No. 40.
- Submitted photographs show properties in St. Kevin's Gardens, a separate road within Zoning Area Z1/applicant fails to convey the consistency in architectural style.

6.4. Further Responses

- 6.4.1. Further responses have been received from John Kehoe (38 St. Kevin's Park), and Philip O'Reilly (18 Grosvenor Place, Rathmines) responding to the submission from D. Coulcher and P. Lyons (40 St. Kevin's Park). – concur with the contents of the submission/no new issues are raised.

6.4.2. A further response has been received from the applicants/appellants responding to the submission from D. Coulcher and P. Lyons (40 St. Kevin's Park). Main points are:

- Revised shadow study has been submitted/Shows the proposed dwelling will not result in any deterioration of the extent of sunlight entering the rear gardens of No.'s 38 and 40.Will generate a shadow on rear garden of No. 39 but only for a short period/will not detract from the open space of the existing dwelling.
- Attached additional illustrations to support statements that visual amenity of No. 38 and 40 will not be impacted upon/position of the house relative to neighbouring gardens/existing vegetation will provide screening/Proposed rear garden of No. 39 will have 210 sq. m. of private open space. Significantly above development Plan Standards.
- Modifications to design were made in response to concerns of neighbours prior to application.

6.4.3. A further response has been received from Philip O'Reilly in relation to the submission from the applicant/appellant (which in turn was responding to the submission from No. 40 St. Kevin's Park). Main points are:

- Shadow caused by existing vegetation/vegetation could be removed
- Overshadowing of existing garden at No. 39
- All references to precedents should be disregarded.

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
- Impact on Residential Amenity
- Design and Conservation
- Other Issues

- Appropriate 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. Section 16.10.8 of the Development Plan refers to backland development. This states that, *inter alia*, the development of individual backland sites can conflict with the established pattern and character of development in an area and can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. However, it does not however rule out well integrated backland development and states that applications for backland development will be considered on their own merits.
- 7.2.3. I have had regard also to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009). Section 5.9 of these Guidelines refers to infill residential development and notes that potential sites may include backland areas. In assessing applications for infill development, the guidelines note a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 7.2.4. Therefore, while the principle of a backland development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development on the appeal site is in keeping with the established character and pattern of development in the vicinity, and would not be detrimental to the amenities of adjoining residential properties.

7.3. Impact on Residential Amenity

- 7.3.1. The reason for refusal refers to the loss of residential amenity and this issue has been raised by observers on the appeal, in particular the impacts on No's 38 and 40 St. Kevin's Park, having regard to overshadowing, overlooking and visual amenity. It

is contended by the observers that the proposal constitutes inappropriate backland development.

- 7.3.2. The First Party contends that the scale and location of the dwelling relative to the neighbouring properties, including No.'s 38, 39 and 40 minimises any impact on surrounding amenity.
- 7.3.3. The proposal will result in built form a minimum of 1.3m from the boundary with No. 38 St. Kevin's Park, 1m from the revised boundary of the existing dwelling at No. 39, and is set back 8.8m from the boundary of No. 40.
- 7.3.4. In relation to overshadowing of existing amenity spaces, the revised shadow analysis as submitted at appeal stage does not show the impact on morning sun that the garden of No. 38 currently enjoys. There is potentially a significant impact on this garden as a result of the height of the dwelling adjacent to this boundary. Furthermore the shadow analysis shows a significant impact on the afternoon sunlight reaching the rear garden of the existing dwelling at No. 39.
- 7.3.5. In relation to impacts on daylight and sunlight levels to the windows and internal accommodation of the properties at No. 38 and No. 40, as well as having regard to overlooking/loss of privacy, the proposed dwelling is sufficiently set back from these properties so as to ensure that there is no loss of daylight or sunlight to these properties and so as to ensure that no loss of privacy will result.
- 7.3.6. In relation to visual impact, the dwelling will present a significant amount of built form to the garden of No. 38 and will be visually overbearing when viewed from the garden of this property. The dwelling presents the highest elements to this boundary and this height is inappropriate, having regard to amenity impacts. The visual impact from the existing rear garden at No. 39 is also significant. While the proposed dwelling presents the lowest elements to this garden, there will be very little screening of the proposed dwelling from the garden, save for a 2m high boundary wall, and the overall result will be a visually overbearing structure when viewed from the rear of No. 39. While there will also be visibility from the garden of No. 40, I do not consider that this view would be overly dominant, having regard to the setback of the dwelling from this property.

7.3.7. In conclusion, I consider that that proposal will have a significant adverse impact on the residential amenity of surrounding properties, having regard to overshadowing of existing garden spaces and impacts on visual amenity.

7.4. Design and Conservation

7.4.1. I consider the proposal to be backland development and is therefore subject to the considerations of Section 16.10.8 'Backland Development' as well as subject to policies relating to design and conservation areas.

7.4.2. In this instance, while the site has a number of characteristics that set it apart from neighbouring sites in that the site area is relatively large and it benefits from the existing vehicular entrance that provides access to the rear, the dwelling as proposed contrasts sharply with the existing pattern of development, having regard to the established building line and relationship of the existing houses to the street.

7.4.3. The established pattern of development is buildings of relatively uniform appearance, with highly defined building lines and attractive period features. The location of the proposed dwelling breaks this established pattern of development, and also results in adverse impacts on surrounding amenity as considered above.

7.4.4. While the visual impact of the proposed dwelling is somewhat limited due to the significant setback from the front boundary, it will still be visible from St. Kevin's Park, and the proposal would present a visually incongruous structure to the street, as a result of its height, roof form, fenestration and overall design. As such it would adversely impact the visual amenities of the area, and would adversely affect the setting and character of the residential conservation area.

7.5. Other Issues

7.5.1. Residential Design Standards – The proposal complies with the standards set out in Development Plan in relation to overall floor area, minimum room sizes and private open space.

7.5.2. Foul Drainage/Stormwater Drainage – Foul water is ultimately connected to the existing public combined sewer system.

7.6. Appropriate Assessment

7.6.1. Having regard to the nature and scale of the proposed development, the construction of a single dwelling house, within a serviced area, and having regard to the

separation distance to the nearest European site, 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 the conservation objectives of any European site.

7.7. Environment Impact Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development, the construction of a single dwelling house, and having regard to the separation distance to the nearest sensitive location, 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. Refuse permission.

9.0 Reasons and Considerations

1. Having regard to the location of the site within a residential conservation area, and having regard to the established pattern of development in the area, and having regard to the location of the site within an existing rear garden, it is considered that the proposed development, by reason of its height, fenestration, overall design and breaking of the established building line, would be visually incongruous and contrary to the visual amenities of the area, and would adversely affect the character and setting of the conservation area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its height and proximity to adjoining boundaries, would seriously injure the residential amenities of neighbouring properties 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.

Rónán O'Connor
Planning Inspector

27th November 2018