



An
Bord
Pleanála

Inspector's Report ABP-302748-18.

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| Development | Dwellinghouse. |
| Location | 122 Glasmore Park, Swords, Co. Dublin. |
| Planning Authority | Fingal County Council. |
| Planning Authority Reg. Ref. | F18A/0443. |
| Applicant | Edward and Lorraine Kelly |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse. |
| Type of Appeal | First Party |
| Appellant | Edward and Lorraine Kelly. |
| Observer | None. |
| Date of Site Inspection | 25 th November 2018. |
| Inspector | Mairead Kenny. |

1.0 Site Location and Description

The site context comprises an established low density residential area to the west of and within easy walking distance of the centre of Swords. The site would be close to a range of retail and commercial uses, under 25 minutes' walk to the main street of Swords and to the Swords Pavillion, a major shopping destination in this area. The surrounding area is characterised also by being relatively close to the airport and the M1 and there is a relatively high amount of warehouse, office and related uses.

The stated site area is 0.203 hectares. The correct site area would appear to be 0.0203 hectares. The application drawings indicate a site of 9.7m at its widest and the depth is in the order of 26m.

The site comprises the side garden of a semi-detached house at 122 Glasmore Park. The immediate site context is characterised by a very varied building line and a diversity of house styles and arrangements, which are best illustrated with reference to the attached photographs. The arrangement of houses to the west is unusual and results in a very particular streetscape when viewed from the south as the side walls of the houses dominate. The other characteristic of note in relation to the proposed development is the incline of the site, which slopes from front to rear. The application drawings show a 200mm difference approximately across the site. Photographs which are attached were taken by me at the time of my inspection.

2.0 Proposed Development

Permission is sought for a **house in the side garden** to the north of the existing house.

The **proposed house is of two-storey design, of stated area of 91 m²** and provides for a three bedroomed semi-detached house with new vehicular entrance, ancillary services and associated works.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for three reasons:

- Infringe existing building line to rear (east) which would be contrary to objective DMS 40 and would seriously injure amenities and depreciate value of property in vicinity.
- Contrary to objective DMS 24 having regard to overall gross floor area of proposed house and lack of storage provision, resulting in provision of substandard residential amenity and would therefore depreciate value of property in vicinity.
- Site layout fails to provide required sightlines and proposed development constitutes a traffic hazard. Development also fails to provide parking in accordance with development plan standards.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The overall conclusion of the planner's report is that it is insufficient in size, would offer poor residential amenity, would seriously injure amenities and depreciate value of property in vicinity and materially contravene objective DMS 24 and DMS 40 and constitute a traffic hazard.

3.2.2. Other Technical Reports

Transport Planning Section report indicates that the proposed development fails to provide adequate sightlines of 23m for a 30kph speed limit zone under DMURS.

Water Services Department of Fingal County Council sets out requirements related to surface water drainage and details to be submitted prior to commencement of construction.

Irish Water sets out detailed requirements which are to be submitted prior to commencement of construction.

3.3. Prescribed Bodies

None relevant.

3.4. Third Party Observations

None received.

4.0 Planning History

Permission has not previously been sought in respect of this land/structure.

No pre-application consultation took place.

Enclosed with the planning application is a certification of exemption under Part V, dated 25th June 2018.

5.0 Policy Context

5.1. Development Plan

The provisions of the Fingal Development Plan 2017-2023 refer. The site zoning is residential 'RS'. There are no conservation objectives relevant to the area.

DMS 40 refers to the development of new houses in gardens and criteria for consideration include having regard to the existing building lines.

DMS 24 relates to standards for new residential development including in relation to floor area and storage.

5.2. Natural Heritage Designations

None in the immediate vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the first party appeal include:

- It is considered having regard to the stepped building line on the street (and in the wider area) that the requirement under DMS 40 to have regard to existing building lines is fulfilled.

- The significance of the building line is overstated. There are precedents in the area.
- The proposed three bedroom house for 4 persons complies with the development plan standards for room sizes. Apart from the hot press and under stairs there is also a dedicated first floor storage area proposed.
- The assessment by the planning authority of the house on the basis of 5 persons is noted and if necessary the house could be stretched by 88mm to achieve the additional floor area of 92 m².

6.2. Planning Authority Response

Planning authority retains opinion that development would infringe the existing building line and therefore seriously injure the amenities of and depreciate the value of property in the vicinity.

The stepped pattern which is referred to by the appellant reinforces the decision to refuse permission on the basis of Objective 40.

It is appropriate to assess the house as a three-bedroom/5 person two-storey dwelling house. The overall gross floor area is below the minimum floor area of 92 m², which is in Table 12.1 of the development plan.

Regarding the revised sightline drawing, the Transport Planning Section advises that these sightlines are shown incorrectly from the edge of the kerb to the centre of the road the site stopping distance in the Design Manual for Urban Roads and Streets for a 30kph speed (residential area) is 23 m measured from 2.0 m back from the edge of the carriageway. Sightlines in accordance with this standard would not be achievable.

In order to provide the required sightlines to the north the boundary wall to the side of the new unit would need to be lowered considerably. The corner of the proposed dwelling in the current layout would also impede sightlines achievable. Sightlines achievable to the south would be impeded due to the geometry of the road and the front boundary wall. The layout fails to provide the required sightlines and therefore constitutes a traffic hazard.

The Board is requested to uphold the decision of the planning authority.

If the appeal is successful a financial contribution under section 48 in accordance with the Scheme is required.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. **Principle**

In principle national and local policy favours the appropriate development of houses in side gardens as a means of addressing housing shortages and providing for sustainable densities, which in turn supports community services including public transport. The site zoning 'RS' facilitates residential development. The emerging context in this area includes the planned 'new Metro North', which if permitted and constructed would include a stop at Swords. The policies relating to increased densities as set out in the Fingal County Development Plan prevail. The requirement to ensure that all new dwellinghouses comply with relevant standards in relation to accommodation size, garden size and parking refers.

7.2. **Building line**

Reason 1 of the decision of the planning authority to refuse permission relates to infringement of the building line to the rear (east) of the site. The development is considered therefore to be contrary to objective DMS 40 of the development plan which refers to new corner site development.

The development plan requirement is that the new development 'have regard to' a number of criteria. These criteria include 'the existing building line'. I note that the appellant takes a streetscape approach to this matter and considers the proposal in the context of the overall length of the street, which is made up of three blocks of stepped terraces. The appellant refers to the two-storey extension at the side of a nearby house in addition.

I consider that in terms of the views from the public realm the breach in the building line is acceptable. In this regard I also refer the Board to the general lack of

uniformity, which is something of a characteristic of this area, together with the absence of conservation objectives. The streetscape at the opposite side of the street at the front of the site is striking in its unique approach to the building line – photograph 6 refers. The stepped building line to the rear has been referenced in the appeal, which also includes an annotated aerial shot of varied building lines in the general area.

The Council's planner considers that the proposal fails to comply with Objective DMS 40 as it does not have regard to the building line of the houses to the rear (east) and furthermore 'would be visually obtrusive when viewed from adjoining properties to the east'. The latter is the heart of the matter in my opinion. In the event that the Board considers that the rear of the house as viewed in particular from the immediately adjacent houses would be described as intrusive, then a refusal on the basis of objective DMS 40 is recommended.

I consider that this is a marginal case. The design of the building is not particularly suited to a corner site. However, it is not reasonable to conclude that when viewed from the north the proposed development would constitute an incongruous structure. In fact the side wall would be similar to that of the existing house.

Regarding the comment in the Council's planner's report that the proposal would seriously injure the amenities and depreciate the value of property in the vicinity, I consider that there is very little in the way of substantive support for this conclusion. The statement that an existing pair of semi-detached houses are to be extended to from a terrace of three storey houses is not a material consideration in my opinion.

The 4m breach of the front building line as viewed from the rear / east could be screened and softened by construction of a high rear and side boundary wall and planting of a few trees of suitable species. There is a difference in levels (about 200mm) across the site, which would warrant construction of a wall of greater height than the proposed 1.8m shown on the site layout plan. I note that the 'Proposed Contiguous North Elevation' shows a wall height of up to 1.91m at the rear.

In my opinion in order to provide adequate screening of the ground floor rear of the house two requirements arise:

- A minimum rear boundary wall of 2.1m at the eastern boundary, tapering to 1.85m as shown on the application drawings, to screen ground floor windows

- Some suitable screen planting in the rear garden would be appropriate – for example a row of silver birch trees or other deciduous species, which would soften and screen the rear of the house but without giving rise to undue overshadowing in the winter months.

In my opinion the development is not so substantially out of character with the established estate as to warrant a refusal of permission on the grounds of residential amenity or visual intrusion under objective DMS 40, subject to the above.

Having considered the merits of the proposal overall I do not consider that reason 1 should be sustained.

7.3. Standard of residential amenity for future occupants.

This refers primarily to the overall gross floor area and storage in the dwellinghouse.

The requirement for a three bedroom house under the development plan is that the minimum floor area be not less than 92 m². This is on the basis that the house is assessed as being for 5 persons, as it contains 2 no. double bedrooms and 1 no. single. The deficiency in floor area on that basis is 1m². I am not convinced that a refusal of permission for that reason is appropriate having regard to other aspects of the proposed house, which would provide a relatively high level of residential amenity. Regarding the latter point I refer to the floor to ceiling height and the rear garden area, both of which are generous. The rear gardens areas which would be associated with the existing and the proposed dwellinghouses would greatly exceed the 60 square m² minimum area set down in the development plan.

I note that the appellant refers to a possible increase in the building by 88mm in the event that the floor area is an issue of concern to the Board. I consider that an alternative would be to reduce the house to a two-bedroom unit. On balance, I do not recommend either option to the Board and I consider that reason 2 should not be upheld.

7.4. Traffic and parking

Regarding the third reason for refusal relates to the sightlines and the failure to provide 23m, which would be appropriate in this area under DMURS. The location of

this house at the far end of a residential estate is such that there appears to be very little traffic passing. I agree with the planning authority that the appellant's submission incorrectly denotes the sightline and that it can be concluded that the DMURS standard would not be met including by reason of the position of the house.

The potential for conflicts between motorists egressing (or entering) the site and children and / or adults on the public pathway would not in my opinion be greatly affected by the relatively small deviation from the DMURS standards. The Board may wish to consider whether it would be appropriate to rigidly adhere to the DMURS standards and to refuse permission on the basis of the sightlines available. The alternative is to maximise the available sightlines by addressing the matter at the existing and proposed house by condition requiring removal of the front boundary walls. On balance, I recommend that such a condition be attached and on that basis I am satisfied that the proposed sightlines would be adequate and that the proposed development would not constitute a traffic hazard.

Lack of parking is also cited by the planning authority as an issue under reason 3. At the time of my inspection on a Sunday afternoon I found some evidence of parking congestion in this area. The appeal submissions includes a layout which shows 2 no. on-site parking spaces. I consider that any concerns relating to parking provision should be dismissed by the Board as the development site is in an area with good public transport, which is likely to be substantially improved in the future.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development, nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and proximity to the nearest European 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.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area including the wide variation in building lines in the vicinity, it is considered that, subject to compliance with conditions in set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 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. Prior to the commencement of development the following shall be submitted and agreed in writing with the planning authority:

(a) A site layout and landscape details showing a revised treatment of the front garden area of the existing and proposed houses, which shall be finished with a high quality paving and maintained in open plan format. No boundary walls shall be provided forward of the front façade of the proposed house.

The front boundary wall at the existing house shall be removed.

(b) Details of boundary walls to include a 2.1m rear (eastern) boundary wall, tapering to 1.85m as shown on the 'Proposed Contiguous North Elevation'.

Reason: In the interests of orderly development and visual amenity and to maximise sightlines in the interest of traffic safety.

3. The external material, colours and finishes on the proposed development shall match/harmonise with existing house on the site.

Reason: In the interest of visual amenity.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution

6. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 13.00 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.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management 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.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Mairead Kenny

Senior Planning Inspector

26th November 2018