



An
Bord
Pleanála

Inspector's Report ABP 302909-18

Development	Demolition of garage, erect a house in side garden.
Location	95 Monkstown Avenue, Monkstown, County Dublin.
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0787
Applicant(s)	Kevin Houlihan
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Killian & Anne Marie Buckley
Observer(s)	None
Date of Site Inspection	4 th January 2019
Inspector	Hugh Mannion

1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.087ha and comprises the side garden of the existing house at 95 Monkstown Avenue, Monkstown, County Dublin. The houses on Monkstown Avenue are separated from the public road by a landscaped strip. The houses are generally semidetached two storey units with a front and rear garden. It appears that originally all these houses had side garages but most of these have been converted to living accommodation. 95 Monkstown Avenue is unusual in that it is detached, as is number 96.
- 1.2. The proposed site is part of the side and rear garden of number 95 and the additional area freed up when the existing garage has been demolished. The appellant's house is number 62 Windsor Drive which is across the rear boundary wall from the application site. An extension to the rear of 95 Monkstown Avenue was under construction at the time of my site inspection and the trees that were in the rear garden along the boundary with the appellant's property have been felled.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of a side garage and the election on a two storey house in the enlarged side garden with a new vehicular access at 95 Monkstown Avenue, Monkstown, County Dublin.

3.0 Planning Authority Decision

3.1. Decision

Grant permission with conditions. Condition 2 reduced the depth of the rear return to the proposed house. Condition 3 required the side elevation windows to have opaque glazing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's report recommended a grant of permission subject to conditions.

3.2.2. Other Technical Reports:

Transport Planning reported no objection subject to a maximum limit on the width of the vehicular entrance.

Irish Water reported no objection.

Drainage Planning reported no objection subject to conditions requiring the disposal of surface water within the site.

4.0 Planning History

4.1. Permission granted under reference D99A/0566 for 96 Monkstown Avenue which has been constructed.

4.2. Permission granted under reference D18B/0364 for a two storey extension to the rear of 95 Monkstown Avenue. This development is currently under construction.

5.0 Policy Context

5.1. Development Plan

5.2. The site is zoned A “to protect and /or improve residential amenity” in the Dún Laoghaire Rathdown County Development Plan 2016-2022.

5.3. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed two storey house would negatively impact on the appellants’ house which is located to the rear of the site thereby materially contravening the residential zoning objective set out in the County Development Plan.
- The proposed development will overlook the appellants’ site.

- The proposed development would set an undesirable precedent for similar development in the area.
- The proposed development would impact on trees along the site boundary and may impact on the root system of a mature sycamore tree within the site.
- The surface water disposal within the site is not adequate.
- The proposed development may over sail/encroach on adjoining property.

6.2. Applicant Response

- The trees referred to in the appeal are not within the application site. The removal of trees will be on foot of tree expert and structural engineer who have determined that the sycamore trees are past their useful life and are affecting the stability of a boundary wall with their roots.
- The appellants' property is 12.77m from the boundary wall. The proposed development is 14.62m from the boundary. The first-floor windows are 19.27m from the boundary wall.
- Development on other site set a precedent for the current application.
- The planning authority's engineering advice has no objection to the disposal of surface water.
- The proposed development does not over sail adjoining property.

6.3. Planning Authority Response

- No further comments.

6.4. Observations

The appellant commented on the applicant's submission as follows;

- The application drawings inaccurately depict the distance between the trees on site and the house on site.
- The proposed development will negatively impact on the privacy of the appellant's back garden.

- The permission granted under D99A/0566 required the retention of trees on the site which included 95 Monkstown Avenue.

7.0 Assessment

7.1. The main issues are as set out in the grounds of appeal and will be considered under the following headings; overlooking, loss of trees, precedent, disposal of surface water and over-sailing of adjoining property.

7.2. Overlooking

7.3. The appeal makes the point that the proposed development is too close to the shared boundary, will give rise to overlooking of the appellants' property and will materially contravene the zoning provisions within the Dún Laoghaire Rathdown County Development Plan 2016-2022.

7.4. The site is zoned A – “to protect and /or improve residential amenity” in the current county development plan. Residential development is permitted in principle in this zoning. Section 8.2.3.4 (v) of the county development plan sets out several criteria against which development in side gardens will be assessed. These include, *inter alia*, the size, design, layout of the proposed development and its relationship with adjoining property, quality of accommodation provided, respect for building lines, provision of private open space, car parking and impact on the amenity of adjoining property.

7.5. The immediate area is characterised by semidetached two storey residential houses with front and rear gardens. Number 95 Monkstown Avenue is detached and may have originally included the area which now accommodates number 96 Monkstown Avenue to the west. This application proposes a two storey house with a single storey return with front and rear gardens. The application site is provided by the demolition of an existing single storey garage and subdivision of the existing garden. The county development plan (section 8.2.8.4) requires that four-bedroom houses provide 75m² of private amenity space. The proposed development provides 120m² rear garden and the existing house at 95 Monkstown Avenue, also a 4-bedroom house) will retain 237m² (although this will be reduced by the extension now under construction). I conclude that the proposed development respects the character of

the area and provides adequate private open space for the existing and proposed house.

- 7.6. The county development plan (section 8.2.8.4(ii)) provides that generally, there should be a 22m separation distance between the directly opposing rear first floor windows of neighbouring houses and that normally each site should provide 11m of this separation distance. The proposed house has a pitched roof, generally, for the two front bedrooms, bathrooms and landings and then a flat roof which serves the two rear bedrooms. There are two first floor windows on the rear (northern) elevation facing the appellants' rear garden. The applicant states that these windows are 19m off the boundary but relying on the submitted drawings I conclude, in agreement with the planning authority assessment, that the rear facing first floor windows are about 16.5m off the rear boundary.
- 7.7. The planning authority required by way of condition the reduction in the length of the ground floor element by 3m to 8m and the first-floor element to 3m. I see no policy basis for this condition in so far as the originally proposed development provided adequate rear garden area and more that 11m separation distance off the rear boundary. I do not consider that this amendment is required in the interest of residential enmity. I recommend omitting condition 2(a). Condition 2(b) required that the rear return be reduced in height to under the eaves of the hipped roof element of the proposed development. I consider that this part of condition 2 is justified on the basis of visual amenity and avoiding an incongruous element in views within the area. Condition number 3 requires opaque glazing on the east and west elevations. This is provided for in the submitted plans.
- 7.8. Having regard to the separation distance between the proposed first floor windows and the rear boundary I conclude that the proposed development will not seriously injure the amenity of the appellant's property due to overlooking and will not materially contravene the zoning objective for the area set out in the county development plan.
- 7.9. **Loss of Trees**
- 7.10. The appeal makes the point that the proposed development may damage trees in the rear of 95 Monkstown Avenue/the application site.

7.11. The applicant's response to the appeal includes an assessment of the structural condition of the boundary wall to the rear of the site close to the sycamore, and concludes that it has already damaged that wall and that it should be removed in the interests of safety. The applicant also includes advice from a landscape specialist that the trees, mainly sycamore, within the site of number 95 Monkstown Avenue are past their useful life. I observed the trees which were on site have been felled.

7.12. Surface Water

7.13. The appeal makes the point that the proposed development may not properly dispose of surface water. The proposed development includes green roof, permeable patio and rear garden with a soak away. The planning authority's drainage planning section (report dated 7th September 2018) stated that there were no objections to the proposed development subject to conditions.

7.14. It may be noted in this context that no additional surface water will arise on site over and above that which falls as rain at present. The green roof and permeable paving will allow for attenuation/infiltration of some surface water and the remaining can be disposed of to the soakaway provided for in the application. I conclude that this matter may be addressed by way of condition.

7.15. Over sailing Adjoining Property

7.16. The appeal makes the point that the proposed development may over sail adjoining property. I have examined the submitted drawings and I conclude that the proposed development can be carried out entirely within the redline boundary of the site. Furthermore, having regard to section 37(H)(6) a person shall not be entitled solely by reason of a grant of permission to carry out any development.

7.17. Precedent.

7.18. The appeal makes the point that the proposed development will set a precedent for similar types of development in the area.

7.19. I note that the county development plan already sets out policy in relation to additional development within existing residential sites. Planning applications for are considered on their own merits within the policy framework and I conclude that the proposed development should not be refused permission on the basis of precedent.

7.20. Parking/Access

7.21. The application provides for two car parking spaces within the site. This complies with the development plan standards set out in table 8.2.3 which required two spaces per three-bedroom house.

7.22. The planning authority points to an anomaly in the application whereby the re-arranged access to the original house at 95 Monkstown Avenue is not within the red-line boundary set out in the application. I recommend that this matter be left to the applicant and planning authority to determine if an additional permission is required for the revised vehicular entrance to number 95.

7.23. Appropriate Assessment

7.24. Having regard to the very modest scale of the proposed development and the foreseeable emissions therefrom 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.

7.25. Environmental Impact Assessment Screening

Having regard to nature of the development comprising the erection of a domestic house in an area zoned for residential development where public piped services are available 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 Reasons and Considerations

The proposed development is located in an area zoned A – to protect and/or improve residential amenity in the Dún Laoghaire Rathdown County Development Plan 2016-2022. Having regard to the pattern of development in the area, the form, scale and height of the proposed development and the proposed separation distance off the boundaries with adjoining sites it is considered, subject to compliance with the conditions set out below, that the proposed development would not overlook adjoining property, would not be intrusive in views within the area and would, otherwise, be in accordance with the provisions of the county development plan and the proper planning and sustainable development of the area.

9.0 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 parapet of the rear return shall be below the eaves of the hipped roof on the proposed house. Plans and particulars providing for this arrangement shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development.

Reason: In the interests of visual amenity.

3. 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.

4. 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.

5. Two no. car parking spaces shall be provided within the site. The location and layout of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure adequate off-street parking provision is available to serve the proposed development.

6. Details of the surface treatment and dishing of the public footpath at the revised vehicular entrance shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of pedestrian safety.

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.

Hugh Mannion
Senior Planning Inspector

11th January 2019