



An  
Bord  
Pleanála

## Inspector's Report ABP 303501-19

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<b>Development</b>	Demolition of an existing house, side garage and studio and construction of a new semi-detached house with all associated site works. Widening of gates.
<b>Location</b>	2 Highfield Park, Windy Arbour, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire- Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D18A/1013.
<b>Applicant</b>	Michael Mc Inerney.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse permission.
<b>Type of Appeal</b>	First party v. decision
<b>Appellant</b>	Michael Mc Inerney.
<b>Observers</b>	1. Highfield, Westbrook Residents Association. 2. Ann Morrissey.

3. Brian McMahon & Suzanne Behan.

4. Elaine Quinlan & Clive Ryan.

5. Desmond & Elizabeth Leahy.

**Date of Site Inspection**

29<sup>th</sup> April 2019.

**Inspector**

Dáire McDevitt.

## **1.0 Site Location and Description**

- 1.1 The appeal site, with a stated area of c. 0.06 hectares, is located on the southern side of Highfield Park, Windy Arbour, a mature suburban area to the west of the Dundrum Road in Churchtown Lower. I note that the observers have referred to Highfield Park, Dundrum. Highfield Park is characterised by developments of varying styles, scales and heights, ranging from single storey, two storey to a three storey flat roof apartment block (Highfield Court Apartments). There is a contemporary style extension to No. 1 Highfield Grove to the east of the site, close to the junction with the Dundrum Road.
- 1.2 The existing house on site, 2 Highfield Park, is a single storey semi-detached house dating from the c.1930s. No. 2 is paired with No. 4 Highfield Park to the west. The site is elevated above the adjoining public road with parking provided within the curtilage of the site. No. 2 is bounded to the east by the River Slang. To the east of the River Slang is No. 4 The Grove. The eastern boundary of the site consist of mature trees. There are limited views of No. 2 Highfield Park from the public road due to the screening currently available from the mature landscaping along the street frontage.

## **2.0 Proposed Development:**

The proposed development comprises of the demolition of an existing house with a gfa of c. 122 sq.m. And the construction of new contemporary style flat roofed three storey semi-detached house with a brick finish (gfa of c. 173 sq.m and a detached c. 12sq.m shed).

## **3.0 Planning Authority Decision**

### **3.1 Decision**

Refuse permission for the following **2** reasons:

1. *The proposed development of a replacement dwelling that includes a three storey element would be visually obtrusive and would seriously detract from the area in terms of visual amenity, materially contravening Section 8.2.3.4 (xiv) 'Additional Accommodation in Existing Built Up Areas' of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would create an undesirable precedent for similar scaled developments contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the proposed height it is considered that the proposed extension would result in direct overlooking of the rear garden area of the neighbouring property to the east, 4 Highfield Grove and would therefore be seriously injurious to the residential amenity and depreciate the value of this property. The proposed development would materially contravene section 8.2.3.4 of the Dun Laoghaire Rathdown County Development Plan 2016-2022, contrary to the proper planning and sustainable development of the area.*

## **3.2 Planning Authority Reports**

### **3.2.1 Planning Report.**

The Planner's Report forms the basis for the Planning Authority's decision.

Points of note include:

- The Area Planner concluded that the existing dwelling holds architectural merit and benefits the visual amenity and character of the surrounding area. The site is also located on an elevated and prominent location. And on the approach from the Dundrum Road the site is more exposed to views because of the gap in the street that is occupied by the River Slang, therefore the side of the house would be highly visible.
- While a contemporary design approach to the replacement dwelling may be considered acceptable, the three storey element is considered visually incongruous and would significantly impact on the character of the surrounding area.

- The three storey element was considered at odds with the modest character of the street, and the site is exposed to the side, making the side elevation of the proposed dwelling highly visible and visually harmful when viewed from the street and from the neighbouring property that lies to the east of the site.

### **3.2.2 Other Technical Reports**

**Transportation Planning.** No objection.

**Drainage Section.** No Objection.

### **3.3 Prescribed Bodies**

**Irish Water.** Further Information relating to the proposal to divert an existing foul sewer from under the existing house to a location close to the new ground floor boundary wall. Details should be agreed with Irish Water.

### **3.4 Third Party Observations**

14 submissions were stated to be received by the Planning Authority. These included ones by the current observers and the issues raised are largely in line with those raised in the observation to this appeal and are dealt with in more detail in the relevant section of this Report. The submissions can be summarised as follows:

- The design, scale and height would be out of character with the existing built environment.
- Overbearing impact on adjoining properties.
- Overlooking and overshadowing of adjoining properties.
- Demolition of the existing semi-detached house could have serious implications for the structural integrity of the house it is paired with.
- Concerns regarding the rerouting of drains.
- Devaluation of property in the immediate vicinity.

- Lack of details regarding a proposed retaining wall.

## 4.0 Planning History

There is no recent planning history for the site as per the Planning Authority's Planning Register.

### **No. 4 Highfield Park:**

Planning Authority Reference No. D14B/0348 refers to a grant of permission for a single storey extension to the side and rear of No. 4.

## 5.0 Policy Context

### 5.1 Dun Laoghaire-Rathdown County Development Plan 2016-2022

Land Use Zoning Objective 'A' *To protect or improve residential amenity.*

**Policy AR8** refers to development of nineteenth and twentieth century buildings, estates and features and the need to ensure their character is not compromised and to encourage the retention of features that contribute to their character such as roofscapes and boundary treatments.

### **General Development Management Standards:**

**Section 8.2.3.4 (xiv)** refers to general development management standards for demolition and replacement dwellings.

This sets out that the Council will sometimes state a preference to retain existing houses that, while not Protected Structures, do have their own merit and/or contribute beneficially to the area in terms of visual amenity, character and/or accommodation.

The Planning Authority will assess single replacement dwellings within an urban area on a case by case basis and may only permit such developments where the existing dwelling is beyond repair due to structural defects. For all applications relating to replacement dwellings, a strong justification/rationale shall be provided by the applicant.

Applications for replacement dwellings shall also have regard to Policies AR5 (Buildings of Heritage Interest) and AR8 (Nineteenth and Twentieth Century Buildings, Estates and Features (section 6.1.3.5 and 6.1.3.8).

**Section 8.2.8.4 (i)** sets out the private open space requirements for new private houses. A figure of 60sq.m is acceptable for 3 bed house and 75 sq.m for 4 bed (or more) houses in cases where good quality open space is provided.

**Section 8.2.8.4 (ii)** refers to separation distances between first floor opposing windows and the standard garden depth of 11 metres.

**Section 8.2.4.9** refers to vehicular entrances and hard standing areas and that maximum width for entrance to single houses is c. 3.5m.

## **5.2 Natural Heritage Designations**

None of relevance.

## **5.3 EIA Screening**

Having regard to the nature and scale the development which consists of alterations and additions to a permitted development, including the provision of dormer windows, in a built up suburban 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.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 The First Party Appeal includes revised plans and particulars and seeks to address the reasons for refusal of permission and is summarised as follows:

- The site of No. 2 Highfield Park has a stated area of c. 0.06hectares and is characterised by a stand of mature trees along its eastern boundary,

running parallel to the River Slang (Arborist report submitted with the application).

- The immediate area is characterised by a mixture of single storey, bungalows, two storey semi-detached and detached dwellings. The dwellings are characterised by various volumetric arrangements, architectural styles, external finishes and materials, including a number of rendered flat roofed modernist dwellings (No. 33 to 45 Highfield Park).
- A structural survey was carried out in the existing house. A number of structural and movement cracks were visible. The report concluded that there was evidence that settlement beneath the later structures, added along the gable extension, have caused localised structural damage to the main body of the house. Subsidence in the southeastern corner of the house can be attributed to pockets of soft ground that have formed on account of discharge from the public foul sewer that traverses the length of the site. The existing house is in need of considerable repair work and underpinning of the foundations is advised, to a depth below the existing sewer (estimated c. 2.5-2.7m), in order to stabilise the house and prevent further deterioration of the structure.
- While the existing damage to the dwelling could be repaired, it would be very expensive to do so, and the source of that damage; namely, the public foul sewer, cannot be repaired, as it remains inaccessible while the house is in-situ; so, the potential for subsequent damage would always remain.
- Currently there is no possibility of reconfiguring the public sewer as it runs beneath the existing structure and there is very restricted access to the rear of the property. Excavating to the depth of the sewer, in such close proximity to the existing house, would undermine both it and the adjacent trees, and this in turn could destabilise the riverbank. Demolishing the existing dwelling affords the opportunity to comprehensively deal with this problem, ensuring a sustainable and viable dwelling into the future, while improving the local infrastructure that supports the nearby residences.
- The existing house is not proposed to be extended as the site is not straight forward and a replacement dwelling requires a bespoke design



solution that takes account of the particular set of site characteristic. In this case it is proposed to build largely within the footprint of the existing dwelling, thereby, avoiding the weakened ground and pipe located to the south and east that is to the side and rear.

#### **6.1.2 Reason No. 1:**

- In an attempt to overcome the planning authority's first reason for refusal the area of the house has been reduced by c.24sq.m, from 173sq.m to 149sq.m, reducing it from a 4 bed to a 3 bed.
- This has been achieved by reducing the area of the second floor by c. 45% to create a continuous, 1.3m, second floor setback on the north, south and east elevations respectively, thereby reducing the overall mass and visual impact of the building on the streetscape, and when viewed on the approach from the Dundrum Road. The ground floor of the proposed house is set at c.39.39m (front garden level) c. 900mm below the raised ground floor of the existing dwelling.
- The Planning Authority raised concerns relating to the three storey element. The proposed continuous second floor 1.3m perimeter setback to three sides of the building, reduces the height of this elevation to a predominantly two storey reading. The second floor is materially differentiated to reinforce this expression, with the brick being reserved for the lower two storey volume only, placing the rendered upper floor into recession. The ground floor is also continuously recessed 1.3m on the east side, to give a more modelled volumetric expression: introducing visual relief to the façade. It is also the case that for the greater part of the year this elevation is completely obscured from view by the existing mature trees that populate the bank of the River Slang.

#### **6.1.3 Reason No. 2.**

- The gable of No. 4 The Grove would face the elevation that includes a window to a first floor living room. No. 4 The Grove is screened from No. 2 Highfield Park by a bank of mature trees, extensive undergrowth and the River Slang. When the trees are in leaf there are no views of No. 4 The Grove.

- The owners of No. 4 The Grove have not lodged any objection to the proposed development.
- The provision of a window to the eastern elevation would ensure a degree of passive surveillance of the river bank which can be the subject of anti-social behaviour.
- A permanent external louvre is proposed across the greater extent of the window to the eastern elevation. In addition a raised planter would be provided in the setback second floor immediately outside the window to provide further screening.

## **6.2 Planning Authority Response**

The Board is referred to the previous Planner's Report as it is considered that the grounds of appeal do not raise any new matters which would justify a change of attitude towards the proposed development.

## **6.3 Observations**

Five Observations have been received from:

1. Highfield, Westbrook Residents Association, c/o 48 Highfield Park, Dundrum, D14.
2. Ann Morrissey, 1 Highfield Park, Dundrum, D14 (opposite No. 2)
3. Brian McMahon & Suzanne Behan, 3 Highfield Park, Dundrum, D14.
4. Elaine Quinlan & Clive Ryan, 5 Highfield Park, Dundrum, D14.
5. Desmond & Elizabeth Leahy, 4 Highfield Park, Dundrum, D14 (paired with No. 2).

The Observations include copies of the original submissions. There is a degree of reiteration and overlap in the issues raised in the observations. I therefore proposed to summarise the issues by topic rather than individually as set out below.

### **6.3.1 Design:**

- The design and height of the proposed development is not in keeping with the character of Highfield, a planned development of twentieth

century houses in keeping with the Garden City Movement. Policy AR8, therefore applies.

- The design, height, scale and mass of the proposal is not in keeping with the established built character of the area. No. 2 Highfield is in a row of bungalows that are at a higher level than the 2 storey houses on the opposite side of the road.
- The proposal would set an undesirable precedent in height and form which would have a detrimental impact on Highfield Estate, an early twentieth century estate of regional importance.
- No visual impact assessment is included with the application to illustrate the visual impact of the proposal.
- Notwithstanding that the proposal is for a new house, it is considered that the most appropriate policies that should apply in this instance is section 8.2.3.4 (i) which refers to extensions to dwellings (additional accommodation in existing built-up areas) would be more appropriate as the single storey element of the proposed house replicates the existing house. Factors to be considered for extensions include overshadowing, overbearing impacts, size and visual harmony with existing structures and impacts on residential amenity.

### **6.3.2 Residential Amenity**

- Concerns that the proposal would result in overshadowing of adjoining property due to its scale and height.
- Overbearing impact on adjoining properties and the streetscape in general.

### **6.3.3 Other**

- The existing sewer traverses the site under the house, concerns have been raised that any diversion of this sewer could have a detrimental impact on the structure integrity of the existing and adjoining houses.
- Loss of view of Three Rock Mountain.
- Devaluation of property.

## **7.0 Assessment**

In an attempt to address the Planning Authority's reasons for refusal the applicants have submitted revisions to the original proposal in the documentation that accompanied the appeal. I note that the scope of the modifications proposed reduces the overall scale of the development and I am satisfied would not require re-advertisement. This Report, therefore, is dealing with the plans and particulars lodged with the appeal. The modifications submitted include a reduction in the overall area by c.24sq.m, from 173sq.m to 149sq.m, reducing it from a 4 bed to a 3 bed dwelling. This has been achieved by reducing the area of the second floor by c. 45% to create a continuous, 1.3m, second floor setback on the north, south and east elevations respectively, thereby reducing the overall mass and visual impact of the building on the streetscape, and when viewed on the approach from the Dundrum Road. The ground floor of the proposed house is set at c.39.39m (front garden level) c. 900mm below the raised ground floor of the existing dwelling.

The main issues in this appeal are those raised in the grounds of appeal which seek to address the Planning Authority's reasons for refusal.

- Design & Residential Amenities.
- Appropriate Assessment.

### **7.1 Design & Residential Amenities**

7.1.1 Section 8.2.3.4 (xiv) of the County Development Plan refers to the criteria set out for replacement dwellings. The applicant has submitted structural reports to support their justification for demolishing the existing house. The demolition of No. 2 Highfield Park is considered acceptable in principle. The Planning Authority refused permission on the premise that the three storey element of the original proposal would be visually obtrusive and seriously detract from the visual amenities of the area. The applicant has submitted revised proposals with the grounds of appeal in an attempt to overcome the Planning Authority's reasons for refusal. I have examined the revised proposals and I note that the

revisions proposed are minor in nature and do not present a significant reduction in scale.

- 7.1.2 Highfield Park is a mature suburban area in Churchtown Lower (also referred to as being in Dundrum) built in the early twentieth century. No. 2 is a semi-detached single storey dwelling that is part of a row of single storey dwellings with hipped roofs along the southern side of Highfield Park. Opposite, at a lower level, is No. 1 Highfield Park (single storey house) with No. 3 & 5, two storey houses, to the northwest. The River Slang, which bounds the site to the east forms the natural boundary that separates the original Highfield Park development from the newer developments, i.e The Grove, a terrace of two storey houses and Highfield Court Apartments, a 3 storey red brick apartment block to the northeast. The immediate vicinity is characterised by a mixture of single storey semi-detached houses and 2 storey semi-detached houses with hipped roof profiles. A number of the houses have been altered and extended over the years but have retained the hipped roof profiles.
- 7.1.3 The replacement house proposed at No.2 is a contemporary style flat roof dwelling, with brick proposed to the ground floor and first floor with a rendered finish to the set backed upper floor element proposed with the revisions with the grounds of appeal. There is difference of height of c. 2.2m between the third floor parapet of the new house and the ridge height of the adjoining single storey house (No. 4 Highfield Park). In my view, the proposed changes in the roof profile and the height of the proposed replacement dwelling would jar with the existing pattern of development and result in a discordant feature on the streetscape and set an undesirable precedent for further similar developments.
- 7.1.4 The current proposal for a contemporary style flat roofed three storey dwelling would form a discordant feature on the streetscape in row of modest single storey dwellings and would be overly dominant in appearance. The design, height, bulk and scale would detract from the character and form of this early twentieth century streetscape which is contrary to section 8.2.3.4 (xiv) of the County Development Plan.

- 7.1.5 I consider the introduction of a three storey dwelling with a flat roof along this section of Highfield Park would be to introduce a discordant element into the streetscape. It would detract from the appearance and rhythm of hipped roof houses, it would be out of character with the area and would have a negative impact on the visual amenities of the area.
- 7.1.6 The applicant has referred to houses in the area as precedents for different roof profiles and heights in the area. In my opinion the issue of precedent does not arise as the context differs from the current site in relation to the design, height and scale of the works proposed. The area is characterised by well-established semi-detached suburban housing in the immediate vicinity. No. 2 forms part of a prominent row of single storey houses. The houses present a uniform look and in the main have not been altered substantially to the front.
- 7.1.7 I consider that the provision of a three storey flat roofed replacement dwelling and the alternative proposals submitted with the appeal, by virtue of their design, height, bulk and scale would be overly dominant and visually incongruous and would be at variance with the predominant pattern of development in the area. The proposed development would, therefore, detract from the existing pattern of development in the area and be contrary to section 8.2.3.4 (xiv) of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would set an undesirable precedent for further such developments in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 7.1.8 The Planning Authority's second reason for refusal referred to direct overlooking of the rear garden of No. 4 Highfield Grove (No. 4 The Grove) to the east from the proposed 'extension' (I consider this a typo). I note that a first floor living room is proposed with windows to the eastern elevation. Proposals to install external louvres have been submitted with the appeal in an attempt to address the issue of overlooking of the rear garden of No. 4 The Grove. I consider that this matter could be addressed by condition in the event the Board considers granting permission. Concerns have also been raised in relation to overlooking from terraces serving bedrooms. The use of terraces and flat roofed areas could also be addressed by condition. I further note that No. 2 is separated from the house to the east by the river Slang and its riparian strip

and extensive mature vegetation. I do not consider that a reason for refusal on these grounds is warranted.

7.1.9 Overshadowing of No.1, No. 3 and No. 5 Highfield Park, located on the northern side of Highfield Park is not concern having regard to their orientation and the relationship of the properties to each other.

7.1.10 The refurbishment of the existing vehicular entrance is noted and considered acceptable. The Area Planner raised no concerns on traffic grounds.

7.1.11 Concerns have been raised by the Observers relation to the diversion of a sewer. This issue would need to be addressed to the satisfaction of the Area Engineer and Irish Water in any future application.

## **7.2 Appropriate Assessment**

7.2.1 Having regard to the nature of the proposed development and the location of the site in a fully serviced built up suburban area, 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**

I recommend that planning permission should be refused for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

It is considered that the proposed dwelling by virtue of its design, height, bulk and scale would be overly dominant and visually incongruous and would be at variance with the existing streetscape. The proposed development would, therefore, detract from the existing pattern of development in the area and be contrary to section 8.2.3.4 (xiv) of the Dun Laoghaire Rathdown County

Development Plan 2016-2022 and would set an undesirable precedent for further such developments in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Dáire McDevitt  
Planning Inspector

3<sup>rd</sup> May 2019