



An
Bord
Pleanála

Inspector's Report ABP-303522-19

Development	Construction of dwelling, shed & new vehicular entrance.
Location	To the side of 23, Shanid Road, Dublin 6W
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4297/18
Applicant(s)	Daniel Cleary
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Daniel Cleary
Observer(s)	Keith and Roseline McHale Carmel Geraghty Sean and Rita O'Byrne
Date of Site Inspection	12 th April 2019
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The site is located on the west side of Shanid Road, and is located adjacent to No. 23 Shanid Road, to the south, and No. 31 Clareville Road, to the north. The site is currently heavily overgrown. The surrounding area is predominantly residential.

2.0 Proposed Development

- 2.1. Construction of dwelling, shed & new vehicular entrance.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason as follows:

It is considered that the proposed dwelling is an overdevelopment of site which does not respect the character of the area and creates an unacceptable overlooking impact of neighbouring properties. The proposal, by reason of the substandard provision of private open space, placement forward of the established building line and overlooking of the adjoining rear gardens from the proposed first floor rear bedroom window would seriously injure the residential amenity of both existing residents in the vicinity and future residents. It would also set an undesirable precedent for the provision of similar substandard development which is out of character with its surroundings. The proposal is therefore contrary to the zoning objective of this Z1 residential area which seeks "to protect provide and improve residential amenities" the policies and objectives of the Dublin City Development Plan 2016-2022 and the proper planning and the sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

- Having regard to the previous refusal (3159/18) the principle of an infill detached property is not objected to.

- Slight decrease in floor area/increase in garden area since the previous refusal.
- Consider the attic space would be used a fourth bedroom/the single room could accommodate a double bed/therefore the number of bedspaces is 7 in total/proposed scheme would require a total of 70 sq. m. garden space/is not close to achieving this.
- Issue of overlooking remains/location of first floor bedroom window is the same/overlooking remains unacceptable.
- 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. Three submissions were received. The issues are raised are covered within the observations on the appeal.

4.0 Planning History

3159/18 – Refuse – House. For one reason relating to overdevelopment/substandard open space/impact on amenity.

4206/17 –Refuse – House. For one reason relating to overdevelopment, substandard provision of open space, overlooking and design/impact on amenity.

0727/02 – Refuse - extension as additional flat and house. For one reason relating to overdevelopment of the site/lack of private open space.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The site is zoned in Z1 “To protect, provide and improve residential amenity’.
- 5.1.2. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:
- QH7 – Promote residential development at sustainable densities.
 - QH8 – Promote the use of vacant or under-utilised sites.
 - Section 16.2.1 Design Principles.
 - 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.
 - Section 16.10.10 ‘Infill Housing’
 - Appendix 24: Protected Structures and Buildings in Conservation Areas.
- 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’ (2009).
 - ‘Quality Housing for Sustainable Communities’ (2007)

5.2. Natural Heritage Designations

- 5.2.1. None.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, a single dwellinghouse, 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 Grounds of Appeal are as follows:

- Proposal has been amended to address the previous refusals on the site.
- Reduced the habitable area from 137.9 sq. m. to 110.5sq.m./ Attic space is now a study space/reduced the width of the dwelling.
- Only 5 bedspaces have been provided for/planner's report refers to 7.
- In the Development Plan generally up to 60-70 sq. m. is considered sufficient/60 sq. m. has been achieved in this instance.
- Development is a medium to high density development in an area served by public transport.
- Is in line with national/regional and local policies.
- Height is lower than surrounding structures/detailing and design break up the scale, mass and bulk.
- Would not impact on amenity/privacy of existing properties.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

3 no. observations have been received. These are summarised as follows:

Keith & Roseline MacHale, 68 Shanid Road

- Contrary to zoning objectives.
- Out of character

- Site coverage is high/out of proportion/overbearing development.
- Little garden retained for existing and proposed house.
- No other houses built on gardens/would set an undesirable precedent.
- Overlooking/loss of privacy.
- Will add to congestion on the road/traffic safety concerns.

Carmel Geraghty, 70 Shanid Road

- Out of keeping with the rest of the road.
- Would overlook houses opposite.
- Seems to be for the rental market/accommodate 6 tenants/other houses are 2 storey semi-detached with gardens to front and rear.
- Traffic congestion/parking issues.

Sean and Rita O'Byrne, 31 Clareville Road

- Development is too big for this side garden.
- Kitchen would be impacted by the development/impact on privacy.
- Neighbours across the road would be greatly affected.
- Would be a rental property like No. 23 is.
- Parking issues.
- An extension to No. 23 would not impact No. 31.

6.4. Further Responses

6.4.1. None.

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

- Development Standards
- Impact on Residential Amenity
- Design
- Access and Parking
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The site is zoned Z1 to protect, provide and improve residential amenities. No objection to the principle of a dwelling on the site has been raised by the planning authority. As such the principle of a dwelling on this site is acceptable, subject to the detailed considerations below.

7.3. Development Standards

- 7.3.1. The reason for refusal cites the overdevelopment of the site as a concern, namely the lack of private open space provided for the dwelling. The planners report states that there is 7 bedspaces in total, therefore 70 sq. m. of private open space is required.
- 7.3.2. The applicant states that there is only 5 bedspaces proposed, and that sufficient private open space has been provided.
- 7.3.3. An observation on the appeal refers to small gardens being provided for the existing and proposed dwelling.
- 7.3.4. The Development Plan states that for new dwellings, a minimum of 10 sq. m. of private open space (usually provided to the side or rear) per bedspace will be required, and that, generally, up to 60-70 sq. m of rear garden area is considered sufficient for houses in the city.
- 7.3.5. The plans submitted with the application denote a rear garden space of 76 sq. m. One double room (which meets the standards for a double room as set out in the Quality Housing for Sustainable Communities guidelines) is indicated, and two single rooms are shown (which fall slightly short of the standards for double rooms in the above guidelines – as such they cannot be necessarily be considered double rooms). A study area is shown at attic level. As such there is a total of 4 bedspaces

shown, requiring a total of 40 sq. m. The proposal exceeds this standard, and also meets the standard of 60-70 sq. m. as referred to in the Development Plan.

- 7.3.6. Having regard to the above, I do not concur with the view of the planning authority, that the proposal represents an overdevelopment of the site, given that a sufficient amount of garden space has been provided.

7.4. Impact on Residential Amenity

- 7.4.1. The reason for refusal refers to impacts on residential amenity, namely as a result of overlooking of adjacent rear gardens from the first floor bedroom window.
- 7.4.2. An observation on the appeal, from No. 31 Clareville Road, refers to overlooking of their kitchen window from the proposed new dwelling. Observations received from No.'s 68 and 70 Shanid Road, located opposite the site, also raised concerns in relation to overlooking.
- 7.4.3. The applicant states that no undue overlooking will result from the proposal.
- 7.4.4. I note that the rear windows of the proposed dwelling do not face directly towards opposing windows, and only directly overlook the very rear portion of the rear garden of No. 31 Clareville Road. The distance from the front windows of the proposed dwelling, to the front windows of the houses opposite the site at No.'s 68 and 70 Shanid Road, is 16.8m. This is sufficient so as to ensure no material overlooking results, and is similar to the relationship of existing houses on either side of Shanid Road. There are no windows to the side elevation of the proposed dwelling.
- 7.4.5. Having regard to the above, I do not consider that the proposal would have an impact on residential amenity, having regard to overlooking.

7.5. Design/Visual Amenity

- 7.5.1. The reason for refusal refers to the proposal being set forward of the established building line.
- 7.5.2. Section 16.10.10 'Infill Housing' of the Development Plan states that infill housing should *inter alia* 'have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings'.

- 7.5.3. The proposal is for a two-storey detached dwelling with a height that is slightly lower than the neighbouring dwelling. While other dwellings in the immediate area are terrace or semi-detached, the detailed design of the proposed dwelling, proposed materials, and overall scale and massing, reflect the characteristics of surrounding dwellings.
- 7.5.4. In relation to the building line, the surrounding dwellings are set in from the road by between 5 to 6m, whereas the proposed dwelling is set in by approximately 3m. However, I do not consider that this would necessarily result in the dwelling appearing incongruous, and requiring a dwelling to conform to at least a 5m setback would effectively sterilise this site for any residential development, that is also required to meet other development plan standards, such as the provision of private open space.
- 7.5.5. In conclusion, the design and appearance of the dwelling is considered appropriate and I do not consider that the proposal would adversely impact on the visual amenity of the area.

7.6. Traffic/Parking

- 7.6.1. The proposal includes the provision of a new vehicular access off Shanid Road. While sightlines to the south are restricted due to the bend in the road, the road is relatively narrow with parking on either side, resulting in low speeds along the road. As such I do not consider the proposal would give rise to a traffic hazard.
- 7.6.2. An off-street parking space is proposed, and the site is relatively accessible by public transport, with a bus stop located approximately 70m from the site on Clareville Road and as such I do not consider the proposal would impact on parking demand in the area.

7.7. Appropriate Assessment

- 7.7.1. 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.

8.0 Recommendation

- 8.1. Grant permission.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016 -2022, and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity nor would it give rise to a traffic hazard. 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 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. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

3. The construction of the development shall be managed in accordance with

a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

4. Notwithstanding the provisions of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), no extensions, garages, stores, offices or similar structures, shall be erected without the prior grant of planning permission.

Reason: In the interests of residential and visual amenity and in order to ensure sufficient private open space be retained for the new dwelling.

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

Reason: In the interest of public health.

6. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

amended, 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.

Rónán O'Connor
Planning Inspector

16th April 2019