



An
Bord
Pleanála

Inspector's Report ABP-303619-19

Development	Construction of House
Location	24 Seaview Park, Shankill, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/1042
Applicant(s)	John Murphy
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	First / Third Party
Appellant(s)	Annemarie Duggan
Observer(s)	None
Date of Site Inspection	30 th April 2019
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The site comprises the side garden of No 24 Seaview Park, which is detached, a gable fronted dormer dwelling currently located on a corner site. The appeal site with a stated area of 0.01949 ha a long, narrow, tapered site located in an established estate characterised by detached dormer dwellings of uniform design set back from the road with private amenity space to the rear. The site is bound by a cul de sac road that provides access to four houses on the opposite side of the road. The site backs onto the rear gardens of No's 24 and 25 Hazelwood, both of which are two storey dwellings, located to the south of the site. The eastern boundary of the site is defined by a low wall with solid timber fence over same. The topography of the site, which is largely grassed is level.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 1 no detached, two storey, two bedroom infill dwelling (100.2 sqm) with single storey sedum roofed element to rear, 5 no roof lights and 4 no PV panels, 1 no new vehicular access from Seaview Park along eastern site boundary and all associated ancillary works necessary to facilitate the development, including SUDs surface water drainage, site works, boundary treatments and landscaping in the side garden of No 24 Seaview Park. The application was accompanied by a detailed Planning Report

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to grant permission subject to 16 no generally standard conditions. Condition No 3 required that a window shall be provided to the stairwell on the first floor of the east elevation of the proposed dwelling.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- **Case Planner** – Recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.

3.2.2. Other Technical Reports

- **Transport Planning** – No objection subject to conditions as set out in the report.
- **Drainage Planning** - No objection subject to conditions as set out in the report.

3.3. Prescribed Bodies

- **Irish Water** – No objection

3.4. Third Party Observations

3.4.1. There is one observation recorded on the planning file from Anne Marie Duggan, No 24 Hazel Wood, Shankill, Co Dublin and may be summarised as follows:

- No 24 is directly behind the site
- The upper window of the proposed house will look out onto the observers living room and back garden and substantially interfere with the privacy of their house and garden
- Suggested that if permission is granted then a condition should be imposed that this window should be frosted glass with only a small opening not overlooking their house / garden which would help protect their privacy

4.0 Planning History

4.1.1. There is no evidence of any previous planning appeal on this site. The following planning history has been provided with the appeal file as summarised:

- **D18A/0624** – DLRCC refused permission for the construction of a three bedroom, two storey dwelling with associated independent vehicular and

pedestrian access from Seaview Park and all associated site works in the side garden of the existing dwelling at No 24 Seaview Park for two reasons summarised as follows:

- 1) Deficient standard of private open space and insufficient off street car parking and would be contrary to Section 8.2.4.5 and Section 8.2.8.4(i) of the Development Plan
- 2) Overlooking impacts on the private amenity spaces to the rear of No 24 and No 25 Hazelwood, would be visually overbearing on the existing adjoining dwelling at No 24 Sea View Park and would not be in keeping with the character of the area

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned **Objective A** where the objective is *to protect and/or improve residential amenity*. **Policy RES4 Existing Housing Stock & Densification** states that it is Council policy to improve and conserve housing stock of the County, to densify existing built up areas, having due regard to the amenities of the existing established residential communities and to retain and improve residential amenities in established residential communities. **Section 8.2.3.4(v) Corner / Side Garden Sites** states as follows:

Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):

- *Size, design, layout, relationship with existing dwelling and immediately adjacent properties.*
- *Impact on the amenities of neighbouring residents.*
- *Accommodation standards for occupiers.*
- *Development Plan standards for existing and proposed dwellings.*
- *Building lines followed where appropriate.*

- *Car parking for existing and proposed dwellings.*
- *Side/gable and rear access/maintenance space.*
- *Private open space for existing and proposed dwellings.*
- *Level of visual harmony, including external finishes and colours.*
- *Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.*
- *Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.*
- *Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.*

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The closest Natura 2000 site is Rockabill to Dalkey Island SCA (c2.41km).

5.3. EIA Screening

- 5.4. Having regard to the nature and scale of the proposed development comprising a new detached dwelling in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 third party appeal has been prepared and submitted by Anne Marie Duggan, No 24 Hazel Wood, Shankill, Co Dublin and may be summarised as follows:

- No 24 is directly behind the appeal site
- The upper window of the proposed house will look out onto the observers living room and back garden and substantially interfere with the privacy of their house and garden
- Suggested that if permission is granted then a condition should be imposed that this window should be frosted glass with only a small opening not overlooking their house / garden which would help protect their privacy. A further possibility is to place the relevant window on the east elevation of the house.

6.2. Applicant Response

6.2.1. There is no response from the applicant recorded on the appeal file.

6.3. Planning Authority Response

6.3.1. DLRCC states that *the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.*

6.4. Observations

6.4.1. There are no observations recorded on the appeal file.

6.5. Further Responses

6.5.1. There are no further responses recorded on the appeal file.

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenity
- Other Issues

8.0 Principle

8.1. The operative plan for the area is the Dun Laoghaire Rathdown County Council 2016 – 2022. Under the provision of this Development Plan the site is zoned Objective A which seeks *to protect and / or improve residential amenity* and where residential development is permitted in principle subject to compliance, with the relevant policies, standards and requirements set out in plan.

9.0 Residential Amenity

9.1. This is a compact serviced urban site. The design response to the sites restrictions demonstrate a clear understanding of the sites context while also maximising accommodation and providing quality well considered private open space to serve the new dwelling without compromising the amenity value of the principle dwelling. The design approach and layout is supported.

9.2. However notwithstanding the foregoing, the pertinent issue to be addressed in this case is the impact on the appellants property located to the rear of the appeal site at No 24 Hazel Wood where particular concern has been raised in relation to overlooking from the proposed rear upper window. This rear window will serve a bedroom and appears to align with a similar window in the parent dwelling at No 24 Seaview Park. The window in question is set back c 15 metres form the rear site boundary. The appellants property appears to be set back a further c14 from their rear boundary giving an overall separation distance of c 29 metres. It is also noted from the site location maps submitted that the both properties are not directly in line

but rather marginally offset. I am satisfied that the separation distance between both properties is acceptable in this urban setting and that the proposed dwelling will not adversely affect the amenities of neighbouring properties.

10.0 Other Issues

10.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising a new detached dwelling and its 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 a European site.

10.2. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

11.0 Recommendation

11.1. It is recommended that permission be **GRANTED** for the reasons and considerations set out below.

12.0 Reasons and Considerations

12.1. Having regard to the site's location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms

of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 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. Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity

5. 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

6. 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 interest of sustainable waste management.

7. 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 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 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

Mary Crowley

Senior Planning Inspector

15th May 2019