



An
Bord
Pleanála

Inspector's Report

ABP-304285-19

Development	Dormer bungalow type dwelling located to the rear of the property
Location	Innisfallon, Dublin Road, Malahide, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0036
Applicants	B & M O'Donoghue
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Brendan Doyle
Date of Site Inspection	16 July 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at the Dublin Road, Malahide, Co. Dublin in the grounds of an existing dwelling known as Innisfallon. The site is located on the northern side of the Dublin Road entrance to Malahide Village, where there are detached and semi-detached dwellings. The existing dwelling on the host site is a detached dormer style dwelling with a large detached single storey building to the side, indicated on drawings submitted as a 'mews' and in the notices as a 'studio'. At the end of the host site there is a large outbuilding with extensive glazing facing towards the rear of the dwelling. The grounds have mature landscaping and are well screened from adjoining sites. The existing dwelling appears to be older than others on the road and is slightly forward of the general building line. The house on the adjoining site to the east is set further back. A dense high hedge separates the site from the property to the east where currently building works are taking place.
- 1.1.2. Access to the site, via a locked gateway with keypad and remote control, is from the busy R106. Notices on this road indicate that there is currently a plan, before the Board, to develop a greenway between Malahide Demense and Newbridge Demense to be known as 'Broadmeadow Way', (304624), which includes a stretch along this road.
- 1.1.3. On the opposite side of the road is Malahide Cricket Club and Malahide Castle / Demense.
- 1.1.4. The site is given as 0.09ha.

2.0 Proposed Development

- 2.1. The proposed development is the construction of a dormer bungalow type dwelling located to the rear and side of the existing dwelling. The works include the demolition of the existing detached studio structure, and modifications to the existing vehicular entrance and boundary.
- 2.2. The proposed three bedroomed dwelling has a stated area of 245 square metres, within a width of 9m and a depth of 16.65m. There is a gabled elevation to the front which has a ridge height of 7.1m.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission subject to 12 conditions, including:

3 The applicant shall relocate the window serving bedroom no. 3 as detailed on drawing no. 1800-102P so that it is centrally located along the section of the rear (northern) elevation of the dwelling which serves bedroom no. 3.

Reason: In the interests of residential amenity.

7 The developer shall comply with the following requirements of the planning authority:

- a) Prior to commencement of construction the developer shall submit details of the proposed soakaway, including distance from boundaries, proposed dwelling, existing dwellings/buildings, on site treatment systems, size of soakaway, and calculations for the determination of the size of the soakaway and the time of emptying calculation, all based on site specific infiltration test results, which are to be submitted. The developer should note that dates, times, and photographs of the trial hole for the infiltration test should be included with the measured result for the site specific infiltration test, as well as a site layout plan with the location of the test hole accurately indicated. The test hole shall be representative of the proposed soakaway. Soakaways shall comply with BRE Digest 365, the GDSDS, be designed to accommodate the 30 year critical duration storm event, include for climate change, use local rainfall data and site specific infiltration values, and be at least 5m from any structure and 3m from any boundary.
- b) No surface water/rainwater is to discharge into the foul water system under any circumstances.
- c) The surface water drainage shall be in compliance with the 'Greater Dublin Regional Code of Practice for drainage works, Version 6.0, FCC, April 2006.

Reason: In the interests of public health.

8 The developer shall comply with the following requirements of the planning authority:

- a) The proposed vehicular entrance shall be re-positioned 1m south of the proposed entrance detailed on drawing no. 1800-100P and the boundary hedge for 2m either side of the entrance shall be removed. The boundary treatment shall not exceed a maximum height of 900mm to provide for pedestrian and vehicular intervisibility at the site entrance;
- b) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.
- c) The footpath and kerb shall be dished at the developer's expense to the satisfaction of the planning authority.
- d) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.

Reason: In the interests of the proper planning and sustainable development of the area.

9 The developer shall comply with the following requirements of the planning authority:

- a) The developer shall ensure retained trees including neighbouring boundary trees and hedges are protected from accidental damage during the course of construction works. Such methods may include ground protection matting within root protection areas and barrier fencing. This protection shall be in accordance with British Standard 55837-2005 'Trees in relation to construction'.
- b) Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details of the boundary treatments. Of particular relevance is the proposal to replace the boundary hedge (or part of) along the eastern boundary.

Reason: In the interests of the proper planning and sustainable development of the area.

10 cleaning & maintenance of the public road during construction.

11 construction hours.

12 development charge.

3.2. Planning Authority Reports

3.3. Planning Reports

3.3.1. The planning report recommending permission includes:

- The proposed dwelling has been located on site in a manner that respects the building line established by the dwellings to the east and behind the rear building line of the host dwelling Innisfallon, a dormer bungalow, finished with a pitched roof profile with the roof slope addressing the Dublin road. This dwelling differs from the neighbouring properties along this section of road as it is located closer to the road and has a lower ridge level. While it is noted the ridge level is approx. 800mm higher than the host dwelling, it is set below the neighbouring property located to the east and that to the west.
- In terms of design and visual impact the proposed dwelling respects the established building line to the east and reflects the ridge levels of dwellings in the vicinity. It is considered that the proposed infill dwelling will not give rise to any significant levels of negative impact or impact on the visual amenity enjoyed by the neighbouring property and is in keeping with the pattern of development in the area.
- Residential amenity – re DMS24 the proposed dwelling falls short of the required storage area but is proposing a utility room of 11.8 sqm. The required storage area of 6 sq m can be located here.
- The rear amenity space proposed is 446 sqm and 264 sq m for the host dwelling. The location and footprint of the building has been amended with reference to the previous proposal which was considered overdevelopment, the problem (building over the sewer) has been overcome.
- Re DSM29 at least 2.3m between the side walls of detached, semi-detached and end of terrace units, a separation distance of 2.5m is proposed between the proposed and neighbouring dwelling.
- The applicant is proposing to provide 1 window at first floor along the eastern elevation which is proposed to be obscured glazing, serving the main bathroom.

- The letter of objection refers to the window serving bedroom no 3 which overlooks the host dwelling. The applicant should be requested by condition to relocate this window.
- Re overshadowing, an observation was accompanied by a shadow analysis which shows the neighbouring property with the amendments permitted under Reg Ref F18B/0162. The neighbouring property is served with a courtyard located to the east of the proposed dwelling and also a large private amenity space to the rear. Having regard to the orientation of the subject site relative to the path of the sun, it is considered that the proposed dwelling may give rise to limited levels of overshadowing of the courtyard area however there will be no impact on the large private amenity space to the rear. The residential amenity will not be significantly reduced.
- Trees and boundary treatment – recommendation per Parks and Green Infrastructure Section report.
- Transportation - recommendation per Transportation Planning Section report.
- Water & Drainage - Water Services Section – report no objection. Irish Water report no objection.
- The refusal on the history file related to the location of the dwelling house relative to the main sewer which transverses the subject site. The applicant is now proposing to locate the dwelling to the east of the host dwelling and provide a 7m separation distance between the rear elevation and the sewer. This overcomes the previous reason for refusal.

3.3.2. Other Technical Reports

3.3.3. Transportation Planning Section

- Located in a 50km/hr speed limit. Sufficient on site parking.
- Sightlines – there is a requirement for sightlines of 49m in each direction. The sightline drawing provided is incorrect. As the footpath is c2.5m wide, the required sightlines are achievable. The issue of pedestrian inter-visibility needs to be addressed. This is achievable with suitable amendments to the boundary hedge. A section of hedge for 2m either side of the proposed entrance should be removed and the boundary treatment should not exceed a maximum height of 900mm.
- Recommending conditions.

3.3.4. Parks and Green Infrastructure Section.

- Recommending conditions.

3.4. **Prescribed Bodies**

3.4.1. Irish Water - recommending conditions.

3.5. **Third Party Observations**

3.5.1. Third party observations on the file have been read and noted.

4.0 **Planning History**

PL06f.211355 PA Reg Ref No. F04A/1779 Board refusal of permission on foot of the PA's decision to refuse, for demolition of existing garage and shed, and construction of five bedroomed bungalow (235 square metres), and detached garage building (42 square metres) to serve both existing and new house to rear of "Inisfallen", Dublin Road, Malahide, County Dublin, sharing existing vehicular access from Dublin Road.

Reason

The proposed development would be located over an existing public sewer and would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. Fingal County Development Plan 2017-2023 is the operative plan, relevant provisions include:

Zoning Objective RS residential – provide for residential development and protect and improve residential amenity.

PM44 – encourage utilisation of infill sites subject to safeguards.

PM45 – encourage contemporary design in suitable locations.

DMS24 – standards for residential development.

DMS28 – rear separation distances.

DMS29 – side separation distances - at least 2.3m between side walls of detached, semi-detached and end of terrace units.

DMS30 – compliance with ‘Site Layout Planning for Daylight and Sunlight’ and BS 8206.

DMS39 – infill to respect height and massing of existing.

DMS44 – respect for areas of residential character.

DMS87 - minimum open space for dwellings.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura sites are Malahide Estuary SAC (Site Code 000205) and Malahide Estuary SPA (site Code 004025) which are c .3km, straight line distance, from the subject site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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. RW Nowlan & Associates, Consultants have submitted this appeal on behalf of the Third Party. The grounds includes:
- Existing dwelling is of architectural interest
 - Negative impact on amenity of neighbouring property
 - Contravenes RS zoning
 - Scale and bulk is inappropriate
 - Proposal gives rise to overlooking
 - Will result in overshadowing

- Modifications are suggested

- 6.1.2. Negative impact on amenity of neighbouring property – the third party was required to make several amendments to a proposed rear extension during the course of a recent application for planning permission: F18B/0162.
- 6.1.3. Separation distance is stated to be 2.5m. They measure it as 1.5m. it is mistakenly related to a development plan distance of 2.4m which relates to terraced and semi detached houses and not to this location.
- 6.1.4. In relation to overshadowing of the permitted third party development, only the impact on the courtyard is referred to, without reference to ground and upper windows.
- 6.1.5. For the spring and autumn solstice dates the courtyard and window would be overshadowed between 2pm and sunset. There would be overshadowing of the rooms from 3pm to sunset.
- 6.1.6. It would be seriously injurious to their amenities and contrary to RS zoning.
- 6.1.7. They also consider that there are strong grounds to suggest diminution of the quality of daylight to rooms.
- 6.1.8. It will be visually obtrusive as viewed from the third party's proposed kitchen and courtyard, or alternatively from the existing dwelling.
- 6.1.9. It will appear cramped from the front.
- 6.1.10. Re. DSM29 (at least 2.3m between the side walls of detached, semi-detached and end of terrace units is required), this is not applicable in this instance and would only work for a single storey low profile bungalow.
- 6.1.11. Scale and mass are inappropriate; in contrast to the modifications he was required to make.
- 6.1.12. A single storey dwelling of low profile would integrate better with both dwellings. A set-back of 3m rather than 1.5m from the common boundary should be required.
- 6.1.13. The modifications suggested are: set-back of 3m from the common boundary; reduction of 300mm in ridge height achieved by reducing floor to ceiling height on the ground floor: from 2.6m to 2.4m, and lowering the ffl by 100mm; remove the projecting gable roof on the east elevation, while this will impact on the headroom in the bathroom and wardrobe, this could be overcome by reducing the width of the landing.

- A shadow study of the development per the suggested modifications, is attached to the grounds. The analysis includes a 2.5m wall to represent the existing hedge on their side of the boundary which was incorrectly described as 4m high. It is permanently maintained at between 2-2.5m high.
- A representation of the obtrusive nature of the proposed development, viewed from the third party's property, is included.
- A drawing showing the rear view of contiguous elevations of properties per the application proposal and also showing their proposed modifications, is included.

6.2. Applicant Response

6.2.1. O'Neill Town Planning, consultants have responded on behalf of the applicant to the grounds of appeal. The response includes:

- Both the appellant's two storey property and the proposed dormer bungalow are 1.5m from the common boundary, a high historical hedge.
- The overall site is 0.18ha. All the trees on the site, including the boundary hedge which screens the proposed house from the appellant's house, will be retained
- Response to - contravenes zoning – it is in full compliance.
- Response to - a setback of 2.5m from the boundary should be provided – objective DMS29 is the metric.
- Response to - overshadowing and proposed modifications – although minor changes to level of shadow are shown no detailed analysis was undertaken to show compliance or otherwise with BRE or other guidelines. No mention was made of the trees displayed on the appellant's plans in support of their recent application. Notwithstanding and without prejudice they would be willing, if the Board thought same would be in the interests of proper planning and sustainable development, to move the proposed dwelling 0.5m from the boundary. The suggestion to reduce the ceiling height is at variance with recent guidelines and the PA's policies to improve living conditions.
- Response to - cramped appearance etc – they note that in the contiguous elevations of properties the higher ridge level of appellant's property is not properly represented.

- Response to - amenities of adjoining dwellings – re the host dwelling, this has been addressed in the site layout and further in condition 3 with which they are happy to comply.
- It will have no impact on the character of the area.
- A drawing accompanying the response shows the entrance relocated 1m further south and provision of the required sightlines, as well as an increase in the separation distance to the eastern boundary to 2m.

6.3. Planning Authority Response

6.3.1. The planning authority has responded to the grounds of appeal. The response includes:

- The rule of thumb mentioned is not referenced back to any policy document of guidelines for planning authorities. Objective DMS29 seeks to ensure a separation distance of at least 2.3m between sidewalls. The proposal provides 2.5m.

7.0 Assessment

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment and the principle of the development, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. Principle of Development

7.3.1. The site is centrally located, serviced and appropriately zoned. There is no objection in principle to residential development on these lands.

7.4. Residential Amenity

- 7.4.1. In the grounds of appeal concern is expressed at overshadowing and drawings showing the impact in March and September at midday, 2pm, 4pm and 6pm have been submitted. There is reference to impact from 3pm onwards but 3pm is not illustrated.
- 7.4.2. The applicant's response points out that no detailed analysis was undertaken to show compliance or otherwise with BRE or other guidelines and no mention was made of the trees displayed on the appellant's plans in support of their recent application.
- 7.4.3. The proposed development is east of the third party's site and this limits the potential impact on sunlight. The shadow drawings presented in the appeal do not demonstrate significant impact to sunlight received by windows. The extent of impact on the outdoor amenity space is not demonstrated to be significant in terms of the guidelines referred to in objective DMS30 of the development plan. Although an important amenity, this space is a small fraction of the outdoor amenity space available within the adjoining site.
- 7.4.4. I am satisfied that impact from overshadowing should not be a reason to refuse or modify the proposal.
- 7.4.5. In the grounds of appeal, concern is expressed at overbearing impact, and drawings showing the impact have been submitted. The appellants also state that the distance from the boundary is not as stated and that the minimum distance between dwellings set out in the development plan is not appropriate to this context.
- 7.4.6. The proposed development will alter the outlook from the third party's property. The existing single storey building currently occupying this part of the site will be replaced by a substantial two storey dwelling. In most situations in this area the space between dwellings is well in excess of the minimum specified in the development plan, nevertheless I do not consider that the proposed development would have a significantly overbearing impact such as would require refusal or modification of the proposal; the required development plan standards are exceeded and the proposal would result in a low density of development.

7.5. Visual Amenity

- 7.5.1. The grounds of appeal refer to visual amenity, that the proposed development will appear cramped from the front and will impact on the character of the area, and they provide contiguous elevations in this regard. The applicant's response points out that in the contiguous elevations of properties, the higher ridge level of appellant's property is not properly represented.
- 7.5.2. The proposed development, with a two-storey asymmetrical gable elevation to the front, is located to the side and rear of the host property, a lower dormer type dwelling. Most of the dwellings in the immediate area are two storeys and of no uniform style. Strong roadside hedgerows and trees give the area a leafy appearance and create some uniformity.
- 7.5.3. In my opinion the proposed development does not impact on the visual amenities of the area such as to require refusal or modification of the proposal.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and subject to the following conditions.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the size of the site, the distance of the proposed dwelling from the dwelling to the east and its scale in relation to adjoining dwellings, it is considered that the proposed development, which would provide an additional dwelling on an underutilised infill site in accordance with objective PM44 of the development plan, would not overshadow or have an overbearing impact on adjoining residential property or detract from the visual character of the area and would otherwise 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. The window serving bedroom no 3 as detailed on drawing no 1800-102P shall be relocated so that it is centrally located along the section of the rear (northern) elevation of the dwelling.

Reason: In the interest of residential amenity.

3. All bathroom/en-suite windows shall be fitted and permanently maintained with obscure glass.

Reason: In the interest of residential amenity.

4. 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. The developer shall comply with the following requirements of the planning authority:
 - a) The proposed vehicular entrance shall be re-positioned 1m south of the proposed entrance detailed on drawing no. 1800-100P and the boundary hedge for 2m either side of the entrance shall be removed. The boundary treatment shall not exceed a maximum height of

900mm to provide for pedestrian and vehicular intervisibility at the site entrance;

- b) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.
- c) The footpath and kerb shall be dished at the developer's expense to the satisfaction of the planning authority.
- d) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.

Reason: In the interests of the proper planning and sustainable development of the area.

6. The developer shall ensure retained trees including neighbouring boundary trees and hedges are protected from accidental damage during the course of construction works. Such methods may include ground protection matting within root protection areas and barrier fencing. This protection shall be in accordance with British Standard 55837-2005 'Trees in relation to construction'.

Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details of the boundary treatments. Of particular relevance is the proposal to replace the boundary hedge (or part of) along the eastern boundary.

Reason: In the interests of the proper planning and sustainable development of the area.

7. 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.

8. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of this development.

Reason: In the interest of public health and orderly development.

9. The developer shall pay to the planning authority a financial contribution of €18,426 (eighteen thousand, four hundred and twenty six euro) 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. The application of any indexation required by this condition 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.

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.

Planning Inspector

17 July 2019

Appendices

Appendix 1 Photographs

Appendix 2 Fingal County Development Plan 2017-2023 extract.