



An
Bord
Pleanála

Inspector's Report

ABP-304394-19

Development	Permission for retention of changes made to the site levels to the rear garden and permission for new screen planting along the site boundaries to the rear.
Location	Burnside, 39 Saint Thomas Road, Mount Merrion, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0113
Applicant(s)	James Grennan and Derval Walsh
Type of Application	Permission for retention
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Michael and Oonagh Beale
Observer(s)	None

Date of Site Inspection

22nd July 2019

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.11 hectares and is located on the northern side of St. Thomas Road, Mount Merrion, Co. Dublin. The site currently accommodates a large detached two/ partial three storey dwelling with a stated area of 352.6m².
- 1.2. Adjoining the site to the west is 'Karinya', a detached two storey dwelling. Adjoining the site to the east is a detached two storey dwelling at No. 37 St. Thomas Road.
- 1.3. Development in the vicinity is primarily residential in character with large dwellings on large sites.
- 1.4. The rear garden has an irregular shape and slopes downwards with a level change of c. 6.75 metres from the front of the site to back.

2.0 Proposed Development

- 2.1. Permission sought for retention of changes made to site levels to the rear garden together with new screen planting along the site boundaries.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 2 No. conditions. Condition 2 required that the site was landscaped in accordance with the landscape drawing submitted with the application within a 5 year period and that the applicant would engage an Landscape Consultant to procure, oversee, and supervise the Landscape Contract for the implementation of the permitted landscape proposals.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning report noted the mitigation measures proposed to reduce the level of overlooking including the planting of 7 No. 12/14cm girth oak trees and considered that this would address the third party concerns. It also noted that the Drainage Department had addressed the proposals and had no further objections and that the applicant had made a reasonable effort to ensure that surface water

does not impact on the neighbouring properties, due to the level changes in the garden.

3.2.2. Other Technical Reports

Transportation Planning: No objection.

Drainage Services: No objection.

3.3. Prescribed Bodies

- No Reports.

3.4. Third Party Observations

- One third party observation was submitted to the Planning Authority. The issues raised are similar to the issues raised in the appeal.

4.0 Planning History

PA D17A/0576

Permission granted for alterations to previously approved planning permission Reg. Ref. D16A/0438. Changes include internal alterations to first floor plan, changes to roof plan and material, minor alterations to fenestration pattern and changes to entrance lobby to the front elevation.

PA D16A/0438

Permission granted for demolition of existing extensions to the side and rear and the construction of a single storey extension to the front and side and part two storey, part three storey extension to the rear together with internal and external alterations to house and the relocation of the existing vehicular entrance and the construction of a new pedestrian entrance.

PA D15B/0113

Permission granted for two extensions to the side of house, comprising of the extensions of lower ground floor dining room, upper ground floor dining room and ground floor living room.

Enforcement

Enf. 58/18

Enforcement file for non-compliance with Condition No. 1 of D17A/0575 in that the rear garden has been increased by c. 2m and the rear terrace is larger than depicted on approved plan submitted.

Adjoining site (appellant's dwelling)

PA D15A/0657

Permission granted for construction of a new single storey extension to the side and a new single storey extension to the rear of the existing two storey detached house, together with a new garage and home office and widening of vehicular entrance and provision of new pedestrian entrance.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022.

- The subject site is zoned A: To protect and/or improve residential amenity.
- Section 8.2.3.4(i) refers to Extensions to Dwellings.

5.2. Natural Heritage Designations

- South Dublin Bay and River Tolka SPA and South Dublin Bay SAC are located c. 2km to the east of the site.

5.3. EIA Screening

Having regard to the nature of the development comprising of alterations to ground levels and the urban location of the site 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

The main grounds of appeal can be summarised as follows:

- Concern in relation to impact on privacy and overlooking.
- Concern in relation to drainage.
- The mitigation measures proposed are inadequate.
- Concern in relation to future works to include paving in close proximity to the boundary.
- Concern that the land levels may be increased in the future by exempted development works.

6.2. Applicant Response

The response to the appeal can be summarised as follows:

- The volume of applications is indicative of the difficult nature of the site conditions.
- The applicant's have extensive planting plans.
- The original drainage survey of 2015 (Fig. 01) shows the drainage wrapping around the house. Due to invert levels of manholes, it is not possible to reduce the levels of these pipes any further. These drains also require manholes and AJs for cleaning and maintenance which needs to be on a level surface.
- A level surface around the house is necessary to set up a ladder for cleaning gutters and windows and checking the roof tiles on a yearly basis.
- To address the appellant's concerns it is proposed to reduce the level of the ground nearest the boundary with Karinya and slope the ground steeply. This area will be extensively planted and will provide screening to the raised lawn and the kitchen bay window.

- The path is not going to be used as a recreation area. As can be seen from Fig. 1, a path had previously surrounded the house at this level.
- The concerns regarding drainage and surface water run off have been adequately addressed.

6.3. **Planning Authority Response**

- The Planning Authority response considers 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**

- None.

7.0 **Assessment**

7.1. The main issues are those raised in the appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Impact on Residential Amenity
- Drainage
- Appropriate Assessment

7.2. **Impact on Residential Amenity**

7.2.1. The main issues raised regarding impact on residential amenity relate to overlooking of rear garden and loss of privacy of the garden of the adjoining house to the west.

7.2.2. Works to the existing house have been carried out under three separate planning applications PA D15B/0113, PA D16A/0438 and D17A/0576. During these building works, grading of the rear garden has been carried out and the grading of the rear garden now differs from the previous permissions.

- 7.2.3. Site/ Landscape Plan Drawing No. 0018-10-18-01 rev a submitted with the application shows in red the existing site contours prior to commencement of works, in blue the terrace approved to the rear of the dwelling under D16A/0438, and in green the terrace as approved by planning permission D17A/0576.
- 7.2.4. The site is wedge shaped tapering from a road frontage level of c. 36.5m to a sharp point at the rear boundary with a level change of c. 6.75m from front to back.
- 7.2.5. I consider that the site is complex having regard to the level changes throughout the site. I refer the Board to photographs 2-4 and 6 taken from the subject site and to photographs 7 and 8 taken from the area in and around the appellant's patio to the rear on the site inspection.
- 7.2.6. The most critical area in my view in relation to the impact on residential amenity relates to the area around the footpath at the northwestern corner of the applicant's dwelling and from the patio of the appellant's dwelling towards the site. From both of these areas, as demonstrated by the photographs, both the applicant and the appellant have a clear line of sight into each other's gardens at present in my view.
- 7.2.7. I note from Fig. 1 of the appeal response which provided a topographical survey carried out in May 2015 that a path had previously surrounded the house at this level. I also note that the Planning Authority report notes that the upper level terrace is similar in size and location to the previously proposed planning application granted under D16A/0438. I note that the new kitchen extension in this area has a number of windows which give rise to some overlooking at ground floor level. I note that it is proposed to extensively plant the area directly adjacent to the pathway and close to this kitchen extension together with part of the western boundary.
- 7.2.8. The Planning Authority report states that the additional screening along the western boundary has addressed the third party concerns. I note that the appeal response states that the level of the pathway was necessary for practical reasons in relation to the invert levels of manholes and maintenance in terms of cleaning windows and gutters etc. It was previously proposed that the garden would be at a lower level and there would be steps at this location leading to the lower level.
- 7.2.9. I do not consider that the pathway will be used for recreational purposes but rather any overlooking from this area would be infrequent and for short periods having regard to the nature of use normally associated with a pathway.

- 7.2.10. In terms of overlooking from a rear garden, the areas of most concern in my view would be from patio areas as occupants would typically spend longer sitting in these areas than other areas of the garden.
- 7.2.11. I note that there are currently three patio areas on the site as shown in photographs 2, 3, and 5. I do not consider there would be undue overlooking in any of these areas due to the locations of the patios, the distance between the patio in photograph 5 and the adjacent dwelling and the lower level of the patio in photograph 3 relative to the adjacent site. I also note that the patio in photograph 3 has been there for a very long time prior to any alterations to the levels or extensions to the house.
- 7.2.12. The appellant raises concern that the applicant's may in future pave an additional area for use as an external terrace on the elevated level landscaped area in close proximity to 'Karinya'. I note that this area is proposed for extensive landscaping in the plan submitted. I also note that the applicant's previously had permission for a large terrace to the rear of the property but altered the location of the patio to the side of the dwelling 'to make the most of the afternoon and evening sunlight.'
- 7.2.13. If the Board is minded to grant permission, a condition could be included to de-exempt otherwise exempted development such as a patio or raising of ground levels. However, I consider that such a condition is not necessary having regard to the plans submitted which indicate extensive planting in the area of concern to the appellant's.
- 7.2.14. On balance, having regard to the planning history and permitted development at this location and taken together with the landscaping plan submitted which provides for extensive planting on the western boundary and adjacent to the north western corner of the house, I am satisfied that the retention of the alternations to the levels would not unduly impact on neighbouring properties.

7.3. **Drainage Issues**

- 7.4. Concern is raised in the appeal that the changes to ground levels may impact on drainage in the area.
- 7.5. A drainage layout plan was submitted with the application which indicates proposed and existing drainage on the site. A drainage report was also submitted with the application.

- 7.6. The potential impact of ground water seepage into the neighbouring property has been considered and it is proposed to provide an impermeable membrane together with an additional drain along the boundary fence to ensure run-off does not enter the neighbouring site.
- 7.7. The Drainage Department Report considered that the applicant had made a reasonable effort to ensure that surface water does not impact on neighbouring properties due to the level changes in the garden.
- 7.8. I concur with this view and consider that the attachment of a condition requiring the details of drainage arrangements to comply with the requirements of the planning authority would be appropriate.

7.9. **Appropriate Assessment**

- 7.9.1. Having regard to the nature and scale of the existing development and the nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the existing 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**

- 8.1. I recommend a grant of permission subject to the following:

9.0 **Reasons and Considerations**

Having regard to the zoning objective of the site as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022, the existing pattern of development in the vicinity and the planning history of the site, it is considered that subject to compliance with the conditions set out below, the development to be retained and completed 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 the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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. 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.

3. The landscaping scheme submitted to the planning authority on the 18th day of February, 2019 shall be carried out within the first planting season following this decision. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

4. Prior to commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning

authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

Emer Doyle
Planning Inspector

30th July 2019