



An
Bord
Pleanála

Inspector's Report ABP-304648-19.

Development	Removal of shed and internal garden wall and construction of a dwelling
Location	7 Cunningham Road, Dalkey.
Planning Authority	DLRCC.
Planning Authority Reg. Ref.	D19A/0051.
Applicant(s)	Christopher Boucher and Lisa Lennon.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Richard McCarthy David Harris.
Observer(s)	None.
Date of Site Inspection	23/30 th September 2019.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by two local residents against the decision of the planning authority to grant permission for a dwelling on an rear garden site in a suburban area just south of Dalkey village. The grounds of appeal mostly relate to amenity and design issues.

2.0 Site Location and Description

2.1. General area

The appeal site is located in Cunningham Drive, a cul-de-sac development approximately 500 metres walk south from the Main Street of Dalkey Village and the Dart station, just north of Dalkey Hill. The Drive consists of an estate of around 20 detached single and two storey dwellings around an area of green open space, on an elevated site with fine views to the north over Dublin Bay. The houses are mostly mid to late 20th Century in date. The access is via a single road link to Cunningham Road, which links to Dalkey Avenue and Railway Road. The southern houses of the road back onto south facing houses on Ardbrough Road, which runs along the northern side of Dalkey Hill, and features an attractive mix of houses from the 19th Century onwards.

2.2. Appeal site

The appeal site is a narrow wedge-shaped rear garden site with a site area given as 0.065 hectares located to the rear of no. 7 Cunningham Drive (which is apparently the same landholding, although it is not blue-lined in the application documents) and next to no. 8 Cunningham Drive, backing on to dwellings on the Ardbrough Road to the south and some modern apartments to the east. It is accessed via a narrow gateway onto Cunningham Drive between no. 7 and 8. There is a small timber and glass shed on the lands and a number of mature trees. The land falls steeply in levels from south to north.

3.0 Proposed Development

The development will consist of the removal of existing single storey shed to the southeast corner and an internal garden wall of the existing dwelling and the

construction of a new single storey, stepped split level dwelling of 167.4 sqm and all ancillary site works. The new dwelling will consist of 3 bedrooms, kitchen \ dining \ living room, bathroom, den \ playroom, WC and a utility. A walled 39 sqm courtyard is to be formed at the entrance of the dwelling.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 11 standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

There are two planning reports on file, the second following a further information request.

- Site is zoned 'A' 'to protect and/or improve residential amenity'.
- Notes 6 submissions objecting to the proposed development.
- States that policy for such developments is set out in section 8.2.3.4(vi) of the development plan on 'backland development' and related policy on private open space. The proposed development is considered to be single storey in height.
- The proposed development is considered acceptable in principle.
- Notes a request by the Transportation Section for further information with regard to the access and the location of a telegraph pole near the proposed gate.
- States that AA has screened out a requirement for NIS.
- Following the submission of further information, it was concluded that the proposed development is acceptable in principle and planning permission was recommended.

4.2.2. Other Technical Reports

Transportation: Requested additional information on the access.

Drainage: No objection subject to conditions.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

6no. observations on file from local residents – all objecting for a variety of reasons relating to amenity and construction impacts.

5.0 Planning History

There is no record of previous applications or appeals for the site. In May 2015 the Board granted permission for a scheme of 18 dwellings on the adjoining site to the east – **PL06D.244307**. This scheme is now complete.

6.0 Policy Context

6.1. Development Plan

The site is located in an area zoned 'A' to protect and improve residential amenities. The site is considered 'backland' and criteria for this is set out in section 8.3.2.4 of the Dun Laoghaire-Rathdown Development Plan 2016-2022. Relevant extracts are set out in the appendix to this report.

6.2. Natural Heritage Designations

The site is approximately 1 km from two Natura 2000 designated sites, the Dalkey Island SPA site code 004172 and the Rockabill to Dalkey Island SAC site code 003000.

7.0 The Appeal

7.1. Grounds of Appeal

Richard McCarthy of 'Ulysses', Ardbrough Road, Dalkey

- Argues that it is contrary to the provisions of the Development Plan, specifically section 8.2.3.4 and 8.2.8.2 and Policy RES3.
- It is argued that (in line with the requirements of 8.2.3.4(vi) that only single story should be permitted and that there should be a minimum garden depth of 7 metres, with 2-storey developments having a minimum garden depth of 11 metres.
- With regard to 8.2.8.4 (Private Open Space), there should be an area of private open space to the front and a minimum garden depth of 11 metres.
- It is argued with regard to policy REX 3 that the design is not sensitive to the established character of the area by way of its height and scale and the separation distance from houses along Ardbrough Road – gives the example of one which is argued to be more appropriate (**D14A/0260**).

David Harris of 17 Ardbrough Road

- It is argued that there is insufficient separation distance between the proposed development and their property on Ardbrough Road. It is argued that 6 metres is insufficient to protect their amenities.
- It is argued that the proposed dwelling is, in effect, 2-storeys and should have been assessed on this basis.
- It is argued that the eastern elevation of the dwelling will appear monolithic and obtrusive and will be overbearing.
- It is argued in summary that it will result in a loss of privacy and a reduction in property values.
- Photographs attached taken from their property.

7.2. Applicant Response

The applicant submitted a separate response to each appeal.

Richard McCarthy appeal

- It is noted (plan provided) that the appellants property only bounds the appeal site for a short distance. It is also noted that there is a c.6 metre rise in ground levels from the north to south of the site.
- A cross-section is included to support the argument that the proposed development uses the natural contours of the site and will not be overbearing on adjoining properties.
- It is argued that the planning authority fully considered all aspects of the proposal in making its decision.
- It is submitted that the proposed development cannot be described as two-storey with regards to the guidelines in section 8.2.3.4(vi) of the development plan. It is argued that these criteria applies to potential overlooking, but due to the design and the natural topography this is not an issue for adjoining properties. It is further noted that the separation distance is 15 metres, which is in accordance with criteria.
- With regard to private open space, it is argued that the overall design has created a high quality private open space area appropriate to the particular context of the site.
- It is noted that increasing density in such areas is in accordance with national policy.
- It is argued that with the protection of the 2 metres high wall and the separation distances the proposed development would not have any impact on properties to the rear.

David Harris Appeal

- As with the above appeal, illustrated arguments are submitted to support the argument that the appeal site only bounds the appellants garden for a short distance, and the drop in levels ensures that the proposed dwelling will not have a significant impact on their amenities.

- It is argued that the planning authority had full regard to all the issues raised with regard to development standards and amenity.

7.3. **Planning Authority Response**

The planning authority refers the Board to the Planners Report. It is not considered that the grounds of appeal raise any issue that would justify a change of attitude to the proposed development.

8.0 **Assessment**

Having inspected the site and reviewed the file documents, I consider that the issues raised in this appeal can be addressed under the following general headings.

- Principle of development
- Design issues and amenity
- Parking and traffic
- Flooding and drainage
- Appropriate Assessment and EIA
- Other issues

8.1. **Principle of development**

The appeal site is within established zoned lands for the protection of residential amenities in the Dun Laoghaire-Rathdown development plan 2016-2022. Relevant guidance and policy objectives for backland developments such as this are set out in section 8.3.2.4 of the Plan, guidelines on garden size and parking, and general policy objectives relating to such infill developments. National and regional policy favours increasing densification of established urban areas close to public transport nodes – the site is within an easy walk of Dalkey Dart Station and a number of bus routes. I would consider that there is a general presumption in favour of such developments subject to the protection of residential amenities and general development standards.

8.2. Design issues and amenity

The site is located on a steep slope, with the rears of houses on Ardrugh Road at the highest point. Most of the site is elevated above the two nearest houses on Cunningham Drive and the newly completed apartment block immediately to the east. The latter is on somewhat lower levels as these lands appear to have been used as a rock quarry prior to the residential development.

The appellants have argued that the design, which is based on a trio of 'steps' down the slope, should be considered two-storey with regard to development plan standards. While it is important to apply those standards where possible, I would concur with the approach of the planning authority in accepting that the site and design are highly unusual and integrated together, and so the design should be assessed on its merits with regard to internal amenity and its impact on neighbouring amenity, rather than the standards which are intended for a more conventional site. Having regard to this, I concur with the planning authority's assessment that the proposed development is not inconsistent with development plan guidelines.

The design has been carefully considered with regard to the two nearest dwellings on Cunningham Drive – it does not overlook or overbear on these two dwellings. The newly constructed apartment development to the east has an exposed gable facing the site – there are no conflicts between these structures, as they will have approximately similar rooflines/eaves heights.

The relationship with the dwellings to the south are more complex. These two dwellings face Ardrugh Road to the south and both have very small rear gardens – but the slope means they have fine aspects to the south. The proposed dwelling has just a small gap between its rear elevation and the stone wall boundary between the site and these two dwellings. The result is a very small separation distance between the rear of both these dwellings and the rear elevation of the proposed dwelling. The appellants both have justifiable concerns about the proximity of this rear elevation to their properties and the potential impacts. Due to the levels difference and the overall aspect the proposed development would not have a significant impact on the Ardrugh Road dwellings through overshadowing or overlooking. Its proximity will undoubtedly have some impact on the overall view and aspect of these dwellings and as the design and layout is unusual an

assessment of the acceptability or otherwise of this is somewhat subjective. Having specific regard to the relatively small relative height of the rear elevation of the proposed development relative to the boundary wall and to the very narrow extent of the shared boundaries, I do not consider that any impacts on these or other dwellings on Arbrugh Road would represent an unacceptable impact on their amenities. I therefore do not recommend a refusal for this reason.

8.3. Parking and traffic

The appeal site is accessed via a narrow lane onto Cunningham Road. The entrance is narrow, but the road is a looped access road with very little traffic so I do not consider that there are any issues of safety or additional traffic generation. There is an ESB pole next to the access – the applicant in the further information request submitted details for the relocation of the pole if necessary.

8.4. Flooding and drainage

There are no watercourses on or around the site and no historic wells or other features indicated on the older OS plans – a full drainage report was submitted with the original application. The site is served with public sewer and storm water drainage. A grass roof is proposed to reduce run-off from the site.

I would recommend a SUDs drainage condition to address any possible increase in run-off from the site.

8.5. Appropriate Assessment and EIA

The site is within an established suburban area, approximately 1 km from the Dublin bay coastline, where there are a number of designated marine and coastal habitats. The site is served with water and connects to the public sewer. There are no watercourses nearby and no watercourses are indicated on or near the site on older OS plans. There are therefore no likely pathways for pollution.

Having regard to there to the small scale of the works and the separation distance from the coast 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.

Having regard to the limited 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.

8.6. Other issues

There are no protected structures on the site or immediate vicinity, no indication of archaeological sensitivities to the site and no other planning issues. The proposed development would be subject to the standard development contribution scheme under S.48 of the Act. I do not consider that there are any other planning issues raised in this appeal

9.0 Recommendation

I recommend that planning permission for the proposed development be granted for the reasons and considerations set out below, subject to the conditions set out in section 11.

10.0 Reasons and Considerations

Having regard to the zoning designation of the site for the protection of residential amenities, and the design and layout of the proposed dwelling, it is considered that subject to the conditions set out below the proposed development would not seriously injure the amenities of the area and would otherwise be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 10th day of May 2019, 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. Prior to the commencement of development, the applicant shall provide written confirmation of an agreement with ESB networks for the relocation of the lighting pole to the rear of the payment. This shall be carried out at the applicant's expense.

Reason: In the interest of road safety and local amenities.

3. All hardcore and surfacing shall be permeable where possible and carried out in association with SUDS requirements.

Reason: In the interest of clarity.

4. The dwelling shall be used for single occupancy only.

Reason: In the interest of clarity.

5. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

6. 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.

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 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.

Philip Davis
Planning Inspector

1st October 2019