



An
Bord
Pleanála

Inspector's Report

ABP-305348-19

Development	Construction of detached dwelling with new vehicular entrance and driveway.
Location	Site to the rear of 38 and 40, Rathdown Park, Terenure, Dublin 6W
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2809/19
Applicant(s)	Thomas A Menton.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeals	Third Party
Appellant(s)	Tony and Ursula Duffy Lorcan Lyons. James Moran
Observer(s)	Terenure Residents Association M Cranston Kenny.
Date of Site Inspection	7 th October 2019
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. The site is located in the south western environs of Terenure Village circa 5km south of Dublin City Centre. Rathdown Park is a well-established suburban area comprising of semi-detached dwellings on relatively large residential plots. Rathdown Park, Rathdown Crescent and Rathdown Avenue date from the inter-war period (1920-2940) and comprise of two storey houses finished in brick, timber and dashed render.
- 1.2. The appeal site comprises part of the rear gardens of No.s 38 and 40 Rathdown Park. No.s 38 and 40 face northwards to Rathdown Park while the appeal site fronts eastwards onto cul de sac also known as Rathdown Park. The area has been walled off in recent months by way of construction of a concrete block wall. An opening in the dashed roadside boundary wall fronting the appeal site has been reinstated by way of construction of an unplastered concrete block wall. The site has a stated area of 331 sq.m with dimensions of 12.075 by 27.185m. of Pay and display parking is provided along the roadway which also includes a number of mature trees.

2.0 Proposed Development

- 2.1. The application as initially submitted involved permission for a new two storey 2 bed detached dwelling with a vehicular entrance and driveway. In response to the request for additional information the scale of the dwelling was reduced to 130 sq.m. The dwelling has a ridge height of 8.8m and incorporates a hipped roof profile and projecting A shaped gable breakfront with circular bay window at ground and first floor level reflective of the existing buildings in the area. External finishes proposed include concrete roof tiles, clay brickwork and sand/cement render or dry dash. Windows and doors of double-glazed uPVC or timber frame.
- 2.2. The initial layout to step the proposed dwelling circa 2m forward of the building line established by the adjacent dwelling to the south (No 36) was revised in response to the request for additional information seeking to maintain the established building line. The layout results in a rear garden depth between 7.5m-8.8m and rear garden area of 95m².

3.0 Planning Authority Decision

3.1. Decision

By order dated 14th August 2019 Dublin City Council issued notification of decision to grant permission subject to 10 conditions which included the following of particular note:

Condition 2. Development Contribution €12,536.64.

Condition 3. The new boundary wall shall incorporate the existing capping. Proposed new pillars and vehicular entrance to match pillars on adjoining dwellings. Existing trees on footpath adjacent to the site to be retained and protected during works.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2.1 Proposal almost identical to that refused previously (3950/17 ABP300518-17) save for amended building line. There is precedent within this Z2 conservation area for single residential infill 3804/18 (No 56 Rathdown Park). A smaller dwelling can be accommodated on the plot and the building line should be maintained.

3.2.2.2 Following submission of additional information report indicates no objection subject to conditions.

3.2.2. Other Technical Reports

3.2.2.1 Engineering Department Drainage Division – No objection subject to compliance with Greater Dublin Regional Code of Practice.

3.2.2.2. Transportation Planning Division notes concerns regarding the impact of the proposal on the existing tree and pay and display parking along Rathdown Park. The option to locate the entrance closer to 36 Rathdown Park to minimise impact on pay and display parking should be considered. Following submission of additional information, the report indicates no objection subject to conditions.

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

Six submissions by and on behalf of local residents and residents groups object on a number of grounds as follows:

- History of refusal – Previous decision cannot be challenged.
- Proposal is out of character within the Z2 zoning.
- Negative impact on residential amenity and architectural coherence.
- Overdevelopment, Density and plot ratio.
- Precedents quoted are not comparable
- Overlooking and invasion of privacy. Light impacts.
- Loss of trees.

4.0 Planning History

There is an extensive planning history on the appeal site.

ABP300518-17 3950/17 In a recent decision April 2018. The Board refused permission for a similar proposal (house design as per initial submission) for the following reason:

“The site of the proposed development is located within a designated residential conservation area to which the zoning objective Z2 of the Dublin City Development Plan 2016-2022 applies. Having regard to the restricted size of the site it is considered that the proposed development would seriously injure the visual character and architectural coherence of this residential conservation area and would be contrary to the said zoning objective set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”

236567 2129/10 In August 2010 The Board upheld decision of Dublin City Council to refuse permission for a two-storey wo bedroom detached house with new vehicular entrance.

232316 4878/08 In June 2006 The Board overturned decision of Dublin City Council to grant permission for a two storey three-bedroom detached house. Refusal on

grounds of impact on residential conservation area, visually overbearing and overlooking.

5.0 Policy Context

5.1. Development Plan

5.1.1 The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022.

- The site is within an area zoned Z2 “To protect and/or improve the amenities of residential conservation areas.” Residential conservation areas have extensive groupings of buildings and associated open space with an attractive quality of architectural design and scale. The overall quality of an area in design and layout terms is such that it requires special care in dealing with development proposals both protected and non-protected.
- **Policy CHC4** seeks to protect the special interest and character of Conservation areas. Development within or affecting conservation areas must contribute positively to its character and distinctiveness and take opportunities to protect the character and appearance of the area and its setting.
- **Section 16.10.10 Infill housing.** The Planning Authority will allow for the development of infill housing on appropriate sites. In general infill housing should comply with all relevant development plan standards for residential development, however in certain limited circumstances the Planning Authority may relax normal planning standards in the interest of ensuring that vacant derelict and underutilised land in the inner and outer city is developed.
- **Section 16.10.9 Corner / Side Garden Sites** The development of a dwelling or dwellings in the side garden of an existing house is a means of making the most effective use of serviced residential lands. Such developments when undertaken on suitable sites and to a high standard of design can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the Planning Authority on suitable large sites. However, some corner / side gardens are restricted to the extent that they would be more suitable for extension into a larger family home rather than to create a poor-quality independent dwelling, which may

also compromise the quality of the original house. The Planning Authority will have regard to the following criteria in assessing proposals for development in corner / side garden sites:

- The character of the street
- Compatibility of design and scale with adjacent dwellings paying attention to the established building line, proportion, heights, parapet levels and materials of adjacent buildings
- Impact on residential amenity of adjacent sites
- Open space standards and refuse standards for both existing and proposed dwellings
- The provision of appropriate car parking facilities and a safe means of access to and egress from the site
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of front and side building lines where appropriate.

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 and to the nature of the receiving environment, 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 There are three third party appeals by three local residents as follows:

- Phelim J Byrne, Architectural, Planning and Surveying Services on behalf of Tony & Ursula Duffy, 12 Rathdown Park.
- Lorcan Lyons, 44 Rathdown Park.
- Stephen Little and Associates, on behalf of James Moran No 36 Rathdown Park.

Grounds of appeal are summarised as follows:

- Inappropriate density. Sub-division of two existing properties No's 38 & 40 significantly reducing plot ratio and site coverage of both relative to the established pattern and density in this residential conservation area.
- Overdevelopment. Site coverage of c32% and increases site coverage of No's 38 & 40 from 23% to 35%.
- Overlooking, invasion of privacy and overshadowing.
- Proposal will not integrate well with existing patterns and will be visually obtrusive and out of scale.
- Cited precedent cases are not comparable. Proposal would set an undesirable precedent.
- Previous decision of An Bord Pleanála should be upheld. No material change in the intervening time that would support a positive outcome.
- Contrary to Z2 Zoning objective and will detract from the character of the street.
- Adverse impact on street pattern, wall, trees and parking provision.

6.2. Applicant Response

6.2.1 The response by PCOT Architects on behalf of the first party is summarised as follows:

- Design of the house informed and refined to address issues raised in relation to previous applications.
- Particular attention given to address issues raised with regard to privacy overlooking or shadowing.
- Layout provides substantial separation distances and restricts overlooking.
- Construction of dwellings in these locations is in keeping with government and Dublin City Council long term objectives and policies.
- Site has been transferred to different land registry portfolio and wall erected along the boundary.
- Clear precedents for this type of development locally and in the wider area.

6.3. **Planning Authority Response**

The Planning Authority did not respond to the appeals.

6.4. **Observations**

6.4.1 Observations are submitted by:

- Terenure Residents Association &
- Michael Cranston Kenny 14 Rathdown Park.

6.4.2 The observer's submission raise common concerns which are summarised as follows:

- No material change from previous refusals.
- Proposal will diminish the character of the area and set an undesirable precedent.
- Despite history of refusal on the site the applicant has cut off the site from the rear gardens of no 38 and no 40 by way of erection of a concrete block wall.
- No precedent for this type of development.

- Design is incongruous - no chimney and lower ridge line and fails to meet requirements with regard to height and materials
- Internal wall is not finished with rounded coping detail to match existing garden wall and is not dashed. Exposure of internal walls will be visually incongruous.
- Applicant's track record does not instil confidence with regard to compliance with conditions.

7.0 **Assessment**

7.1. Having read the contents of the appeal file, visited the site and having regard to the planning history on the site I consider that this appeal case may be assessed under the following broad headings:

- Principle of development
- Material Changes since the Board's Previous Decisions
- Residential amenity impact
- Appropriate Assessment

7.2 **Principle of Development**

7.2.1 The site is zoned Z2 and the objective is to protect and/or improve the amenities of residential conservation areas. The development plan notes that residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. Policy CHC4 is the policy to protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement

opportunities may include contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.

7.2.2 In considering the question of the principle of the development which involves the subdivision of the two established dwelling sites the development plan clearly supports appropriate infill development on corner side garden sites as a means to making effective use of serviced residential lands. The key question therefore arising relates to the compatibility of the proposal with the Z2 zoning and the established architectural character of the area. I note that in this regard the Board has previously determined on two occasions that the provision of a dwelling on this site would injure the visual character and architectural coherence of this residential conservation area.

7.2.3 The proposed development seeks to replicate existing external characteristics and material finishes of the established Rathdown Park dwellings. I consider that the proposal does not sit well and would have a negative impact on the architectural quality of the streetscape. The scale and proportions of the proposed dwelling would be noticeably different from those around it and would be a discordant feature in the streetscape. As noted by previous reporting inspectors in the Board's previous decisions one of the contributing factors to the character of Rathdown Park is the consistent character of low-density residential use and generous plot size. In my view the proposed development would seriously injure the visual character and architectural coherence of this residential conservation area contrary to the provisions of the development plan. The Board previously determined that having regard to the restricted size of the site the proposed development would seriously injure the visual character and architectural coherence of this residential conservation area and would be contrary to zoning objective Z2 of the Development Plan. The question arising therefore is whether there have been any material changes since the Board's previous decision to warrant a grant of permission.

7.3 Material changes since the Board's previous decision

7.3.1 As regards the policy context I note the the Boards Previous Decision 24/4/2018 was made under the provisions of the current Dublin City Development Plan 2016-2022. I

note that the National Planning Framework (adopted 29 May 2018) maintains an emphasis on providing higher densities within built up areas. Objective 35 seeks to increase densities in settlements through a range of measures including infill development schemes. This increased emphasis on increased densities was also the context at the time of the last decision by the Board and as noted by the previous reporting inspector the proposed site will not significantly increase housing stock and any potential development must be considered in the context of an assessment of the potential for the development to have an adverse effect on the residential conservation area and the established character of the original layout.

7.3.2 In a comparison of the current application to that previously refused by the Board the current proposal involves a reduction in the frontage of the proposed dwelling from 9.675m to 8.775m with an alteration to the pattern of fenestration to the front elevation. I consider that the changes proposed under the current appeal are not significant or material so as to warrant or justify a change in the previous decision relating to the site. I note that other change since the Board's previous decision is that site has been separated from the established dwellings 38 and 40 Rathdown Park and enclosed by way of boundary walling. In considering the visual impact of same I consider that this has not only diminished the residential amenity of these dwellings but also results in a negative impact on visual character. I consider that there has not been any material change in circumstances either in policy guidance or in the layout and design of the current dwellinghouse which would justify a reversal of An Bord Pleanála's previous decisions under ABP300518-17 and PL29S 236567 and PL29S.232316 On the matter of cited precedent cases, having reviewed the referenced cases I note the different context at 56 Rathdown Park and 35 Rathdown Park and it is appropriate that the current appeal is assessed on its own merit.

7.4 Residential Amenity Impact.

7.4.1 As regards the residential amenity of the proposed dwelling, I note that the proposal can provide 95 sq.m of private open space to the rear of the dwelling to meet the minimum standard of 10 sq.m of private open space per bedspace as set out within the development plan. On the issue of impact on established residential amenity, I

note that proposed design incorporates obscure glazing at upper floor levels to mitigate overlooking. Overshadowing impact is not significant.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature and scale of the proposed 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 proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European site.

8.0 Recommendation

8.1. Refuse permission for the proposed development in accordance with the plans and particulars as lodged based on the reasons and considerations set out below:

Reasons and Considerations

1. The site of the proposed development is located within a designated residential conservation area to which the zoning objective Z2 of the Dublin City Development Plan 2016-2022 applies. Having regard to the restricted size of the site, it is considered that the proposed development would seriously injure the visual character and architectural coherence of this residential conservation area and would be contrary to the said zoning objective set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector
25th November 2019