



An
Bord
Pleanála

Inspector's Report 305488-19

Development	Part three-storey over basement, part single-storey house
Location	1 Mornington Park, Malahide Road, Dublin 5
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3470/19
Applicant(s)	Aran Johnston
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party v. Decision
Appellant(s)	Aran Johnston
Observer(s)	Kieran Power
Date of Site Inspection	27 th November 2019
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site comprises the side garden of No. 1 Mornington Park, Malahide Road, Dublin 5, which is a two-storey, semi-detached dwelling with off-street car parking to the front. The site is located on the north-western side of the Malahide Road, close to the junction with Ardlea Road.
- 1.2. The neighbouring dwellings to the north-east of the application site are also two-storey, semi-detached dwellings. The neighbouring property immediately to the south-west is a gable-fronted dormer bungalow.

2.0 Proposed Development

- 2.1. The proposed development comprises a part three-storey over basement, part single-storey dwelling. The house would adjoin No. 1 Mornington Park, creating a terrace of three houses in place of the existing semi-detached pair.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission for 1 no. reason issued on 5th September 2019.
- 3.1.2. The refusal reason related to the design, width and bulk of the dwelling, its proximity to existing residential development, its overbearing impact on neighbouring property and its impact on the residential and visual amenities of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. Basis of Planning Authority's decision.

3.2.3. In considering the design and scale of the dwelling, Dublin City Council's Planning Officer noted that the width of the proposed dwelling would not match that of No. 1 Mornington Park or its adjoining semi-detached house. The Planning Officer further noted these existing dwellings have hipped roof profiles, while the proposed dwelling

would result in a gable-ended roof profile at one end of the terrace. In conclusion, the Planning Officer had serious concerns regarding the width and bulk of the proposed dwelling, its location adjoining the side boundary with an angled two-storey elevation and gable-ended roof profile, its overbearing nature on the adjacent bungalow and its impact on the character of the area.

- 3.2.4. In considering the impact of the development on the adjacent bungalow, Dublin City Council's Planning Officer had serious concerns that the location of the gable wall on the party wall, would have a negative impact on the amount of light available to the existing windows on the north-east facing elevation of the neighbouring property. The Planning Officer also noted serious concerns regarding the overbearing nature of the proposed development.

3.3. **Other Technical Reports**

- 3.4. **Transportation Planning Division:** No objection to the proposed development subject to conditions.

- 3.5. **Engineering Department Drainage Division:** No objection to the proposed development subject to conditions.

3.6. **Prescribed Bodies**

- 3.7. **Irish Water:** No response received.

3.8. **Third Party Observations**

- 3.8.1. 1 no. third party submission was made on this application by Mr. Kieran Power of Stella Lodge, Malahide Road, Dublin 5 (adjoins the application site to the south-west) who objects to the development on the basis that the proposed basement level would impact on the foundations of his property. It is also submitted that the proposed dwelling would block natural light to 2 no. existing bedrooms located along the boundary wall.

4.0 **Planning History**

- 4.1. **PA Reg. Ref. 4261/18:** Split decision issued on 18th December 2018, with planning permission granted for the alteration and extension of No. 1 Mornington Park and planning permission refused for a part three-storey over basement, part single-storey dwelling to the side.

- 4.2. **PA Reg. Ref. 2323/16; ABP Ref. PL29N.246592:** Planning permission refused on 22nd August 2016 for a two-storey detached dwelling to the side, with shared driveway and all associated site works at No. 1 Mornington Park, Malahide Road, Dublin 5.
- 4.3. The refusal reason in both cases reflects that of the planning authority in the current application.

5.0 Policy and Context

5.1. Development Plan

5.2. Dublin City Development Plan 2016-2022

- 5.2.1. **Zoning:** The site is subject to land use zoning 'Z1' (Sustainable Residential Neighbourhoods), which has the objective "*to protect, provide and improve residential amenities*". Residential land uses are permissible under this zoning objective.
- 5.2.2. **Policy:** The housing policies of Dublin City Council are contained within Chapter 5 of the development plan. Those policies which are directly relevant to this appeal case are identified below.
- 5.2.3. **Policy QH1:** To have regard to the DEHLG Guidelines on '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007), '*Delivering Homes Sustaining Communities – Statement on Housing Policy*' (2007), '*Sustainable Urban Housing: Design Standards for New Apartments*' (2015) and '*Sustainable Residential Development in Urban Areas*' and the accompanying '*Urban Design Manual: A Best Practice Guide*' (2009).
- 5.2.4. A target gross floor area of 110 m² is identified for a 3-bedroom/6-person/3-storey house under the *Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities* (2007).
- 5.2.5. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need

for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

- 5.2.6. **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- 5.2.7. **Policy QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.
- 5.2.8. **Corner/Side Garden Sites:** Such development can make valuable additions to the residential building stock of an area and will generally be allowed on suitable larger sites. The Planning Authority will have regard to the following criteria in assessing such proposals:
- The character of the street;
 - Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings;
 - Impact on the residential amenities of adjoining 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 the front and side building lines, where appropriate.
- 5.2.9. **Infill Housing:** In general, infill housing should comply with all relevant development plan standards for residential development. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

5.2.10. Infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings;
- Comply with the appropriate minimum habitable room sizes;
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

5.2.11. **Basements:** In considering applications for basement developments, the planning authority will have regard to the following:

- In all cases, a basement development should not generally extend to more than 50% of the amenity/garden space;
- Impact of proposal on future planting and mature development of vegetation and trees on the site;
- Impact of the water table and/or any underground streams and sewers;
- The basement development should provide an appropriate proportion of planted material to mitigate the reduction in the natural storm water infiltration capacity of the site and the use of Sustainable Urban Drainage Systems is recommended;
- Measures should be taken during demolition and construction works to ensure that the structural stability of the existing property, adjoining properties and critical infrastructure is maintained;
- Adequate sunlight/daylight penetration will be required which will be influenced by the site orientation and the size of the site and any lightwell/courtyard; the planning authority may require a daylight analysis to be submitted as part of a planning application;
- Adequate ventilation will be required; kitchens, bathrooms and utility areas should ideally be naturally ventilated;
- Basements should be provided with a means of escape allowing access to a place of safety that provides access to the external ground level.

5.2.12. **Private Open Space:** A minimum standard of 10 m² of private open space per bedspace will normally be applied, with up to 60-70 m² of rear garden area sufficient for houses in the city.

5.2.13. **Car Parking:** The site is in Area 3 of the city, within which a maximum standard of 1.5 car parking spaces applies.

5.3. **National Planning Framework (NPF)**

5.3.1. The NPF sets out objectives which aim to secure more compact and sustainable growth patterns in urban areas in the period to 2040.

5.3.2. **National Policy Objective 3b** seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

5.4. **Natural Heritage Designations**

5.4.1. None.

5.5. **EIA Screening**

5.5.1. Having regard to the nature and scale of the proposed development, comprising 1 no. residential dwelling in an established residential 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. A first party appeal has been lodged in this instance, the grounds of which can be summarised as follows:

- The proposed development will meet the applicant's own housing need and enable him to reside in the area in which he grew up;

- The site is zoned for Z1 purposes, with the proposed development meeting the requirements of the zoning objective and development plan policy which supports the reuse of such sites;
- The current application addresses the refusal reasons relating to the previous application ABP Ref. PL29N.246592;
- The height, width, detailing and finish of the proposed house closely matches the existing and neighbouring dwellings and is therefore in harmony with the adjoining houses;
- Planning permission was recently granted for works to the existing house, including the replacement of the existing hip roof with a gable wall. The established precedent of a gable roof at this location has been carried through to the current application;
- The front and rear gardens of the existing and proposed dwellings exceed development plan requirements, with adequate off-street parking to the front and the internal design of the house meeting all current requirements for light and space. The Planning Authority's decision is unjustified given that the development meets all relevant assessment criteria;
- The construction of a basement adjacent to other buildings is common in urban areas;
- The main rooms in the neighbouring dormer bungalow face east and west and not towards the application site. The north-facing side windows are located some distance from the shared boundary along the single-storey component of the proposed dwelling;
- The proposed dwelling will be located directly north of the neighbouring dormer bungalow and as such, no blocking of sunlight or overshadowing will occur.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

- 6.3.1. 1 no. observation has been received from Mr. Kieran Power, the occupier of the adjacent property to the south-west. The points raised in the observation reflect those of his third-party submission to the planning authority.
- 6.3.2. Mr. Power further submits that the proposed development will encroach on the privacy of his property due to its proximity to the boundary wall, which will also cause difficulties for emergency services.

7.0 Assessment

- 7.1. I am satisfied that the main issues for consideration in this case include:
- Previous refusals of permission on the site;
 - Design and scale of the proposed development;
 - Impact on neighbouring residential properties;
 - Visual impact of the proposed development;
 - Appropriate assessment
- 7.2. Each of these issues is addressed in turn below.
- 7.3. **Previous refusals of permission on the site**
- 7.3.1. Planning permission was refused on the site in 2016 for a detached two-storey dwelling (PA Reg. Ref. 2323/16; ABP Ref. PL29N.246592 refers). In making this decision, the Board considered that the development of a detached house on a restricted site with narrow frontage, in particular its design and height relative to neighbouring property, would represent a discordant feature in the streetscape, which is characterised by semi-detached and terraced houses with hipped roofs. As such, it was considered that the proposed development would seriously injure the amenities of property in the vicinity.
- 7.3.2. A split decision was subsequently issued in 2018, with planning permission granted for alterations to the existing dwelling and permission refused for a part three-storey over basement, part single-storey dwelling attached to the side of No. 1 Mornington Park (PA Reg. Ref. 4261/18). The design of that dwelling reflects that of the current

application, with the same refusal reason issued by the planning authority in both cases.

- 7.3.3. In my opinion, the current application overcomes the refusal reason issued by the Board in relation to PA Reg. Ref. 2323/16; ABP Ref. PL29N.246592. While a detached two-storey dwelling was previously proposed, the current application seeks to deliver a dwelling which is attached to the side of No. 1 Mornington Park, thus forming a terrace of three houses in place of the existing semi-detached pair. The design, height and materials of the proposed dwelling will match No. 1 Mornington Park, and as such, will reflect the existing pattern of development at this location.
- 7.3.4. In assessing the current application, Dublin City Council's Planning Officer considered it did not address the 2018 refusal reason concerning PA Reg. Ref. 4261/18. However, in my opinion, the proposed development would be acceptable on the subject site as discussed further below.

7.4. Design and scale of the proposed development

- 7.4.1. The proposed development comprises a part three-storey over basement, part single-storey dwelling in the side garden of the existing two-storey, semi-detached house. The second floor of accommodation is located within the roof space, with 1 no. dormer window and 1 no. rooflight on the rear roof slope. The overall height of the proposed dwelling (9.35 m) matches that of the existing.
- 7.4.2. Planning permission was recently granted for alterations to No. 1 Mornington Park under PA Reg. Ref. 4261/18, including the provision of habitable accommodation at the roof level and a single-storey extension to the rear. I noted during my site inspection that this permission is currently being implemented and is nearing completion. These works have amended the side elevation of the existing roof from gable-ended to a pitched design, resulting in an asymmetric pattern with the adjoining gable-ended dwelling at No. 2 Mornington Park. I note that similar alterations have been undertaken to the side profile of No. 6 Mornington Park to the north-east of the application site.
- 7.4.3. The three-storey element of the proposed dwelling extends across the full width of the site (c. 5.45 m). While floor plans of the existing property have not been submitted with the application, I estimate it has a width of c. 6.5 m based on the Site Location Map provided.

- 7.4.4. The proposed dwelling extends directly along the party wall with the neighbouring property to the south-west (Stella Lodge) for c. 8.4 m. The single-storey element of the dwelling then steps in from the shared boundary and extends to a depth of c. 6.7 m, in line with the single-storey extension of No. 1 Mornington Park.
- 7.4.5. As set out in Section 3.2.3 above, Dublin City Council's Planning Officer had serious concerns regarding the width and bulk of the proposed dwelling, its location adjoining the side boundary with an angled two-storey elevation and gable-ended roof profile, its overbearing nature on the adjoining bungalow and its impact on the character of the area.
- 7.4.6. In considering the foregoing, I note that there is no requirement for the proposed dwelling to match the width of the existing house. The site is zoned for residential purposes and is not subject to any conservation or Protected Structure designation which would warrant such a restriction. While the dwelling is narrower than No. 1 Mornington Park, it has a floor area of 229 m² and as such, significantly exceeds the minimum target gross floor area for a 3-bedroom/6-person/3-storey house (110 m²) as per the *Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities* (2007).
- 7.4.7. In considering the gable-ended roof profile of the proposed dwelling, I note that the roof of the existing dwelling has already been modified to a pitched profile, while similar alterations have been undertaken to a neighbouring semi-detached property. Thus, in my opinion, a precedent for this type of development has already been established at this location.
- 7.4.8. In conclusion, I consider that the design concerns which have been raised by the Planning Authority in this instance are unreasonable. Development plan policy generally requires that infill housing or housing in side gardens be compatible with existing dwellings in terms of building lines, materials, parapets, proportions and height. The proposed dwelling will match the existing dwelling with respect to its height, materials and the established building line. As such, I consider that the proposed dwelling would reflect the established pattern of development at this location.

7.5. Impact on neighbouring residential properties

- 7.5.1. In my opinion, the only dwelling which has the potential to be negatively affected by the proposed development is the dormer bungalow directly to the south-west of the application site. This neighbouring property is gable-ended onto the Malahide Road. As such, its primary orientation is south-east/north-west i.e. facing away from the proposed development.
- 7.5.2. The bungalow has a covered side entrance/porch area which abuts the boundary wall, with the remainder of its side (north-eastern) elevation stepping back from the party boundary. It has 2 no. ground floor level windows and 3 no. rooflights on this elevation facing the application site. As noted in Section 7.4.4 of this report above, the three-storey element of the proposed dwelling extends along the shared boundary for c. 8.4 m.
- 7.5.3. In considering the impact of the development on this neighbouring property, Dublin City Council's Planning Officer had serious concerns that the development would have a negative impact on the amount of light available to the existing windows on its north-east facing elevation. These concerns have also been expressed by the landowner, in addition to concerns regarding the encroachment of the proposed development on the privacy of his property.
- 7.5.4. In my opinion, no significant overshadowing can occur given the orientation of the proposed dwelling to the north-east of the existing property. In addition, while the proposed development will introduce a new three-storey, pitched-roof building form along the shared boundary for a depth of c. 8.4 m, the development will front onto the side elevation of the neighbouring dwelling which has primary frontages onto the Malahide Road and its own rear garden. Having regard to the foregoing, in my opinion, the proposed development would not cause an overbearing impact to such an extent to warrant a refusal of permission in this instance.
- 7.5.5. While the adjoining landowner has raised concerns regarding the impact of the development on the privacy of his property, I note that no windows are proposed on the side elevation of the dwelling at the first or second floor levels. As such, no overlooking can occur. This landowner has also expressed concerns regarding the impact of the proposed basement on the foundations of his property. This is a construction matter which will be dealt with via a separate code.

7.6. **Visual impact of the proposed development**

7.7. Dublin City Council considered that the proposed development would seriously injure the residential amenities of the area and would appear visually incongruous at this location.

7.8. In considering the foregoing, I note that the existing development along the south-eastern side of the Malahide Road (opposite the application site) is primarily characterised by semi-detached, two-storey dwellings. The existing pattern of development on the north-western side of the Malahide Road is more varied, including a petrol filling station, local neighbourhood shops and semi-detached dwellings, with building heights generally ranging from 1-2 storeys. Having regard to the variety of the existing built context, I consider that the proposed development would have no significant negative impact on the visual amenities of the area and would largely reflect the height, design and materials of the adjoining dwelling at No. 1 Mornington Park.

7.9. **Appropriate Assessment**

7.9.1. Given that the development is proposed to be connected to the public water supply and drainage networks, and having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

8.1. I recommend that planning permission be granted subject to conditions.

9.0 **Reasons and Considerations**

9.1. Having regard to the site's location on serviced urban land, the residential land use zoning of the site, and the nature and scale of the proposed development, 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 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.</p> <p>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.</p>
3.	<p>A naming/numbering scheme for the dwelling shall be submitted to and</p>

	<p>agreed in writing with the planning authority prior to the occupation of the dwelling.</p> <p>Reason: in the interest of orderly street numbering.</p>
4.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. These include, <i>inter alia</i>;</p> <p>(a) To minimise the risk of basement flooding, all internal basement drainage must be lifted, via pumping, to a maximum depth of 1.5 m below ground level before being discharged by gravity from the site to the public sewer.</p> <p>(b) The developer shall ensure that an appropriate Flood Risk Assessment, in accordance with OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment, is carried out for the proposed development.</p> <p>Reason: In the interest of public health.</p>
5.	<p>Prior to the commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise</p>

	<p>management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
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Louise Treacy
Planning Inspector

17th December 2019