



An
Bord
Pleanála

Inspector's Report

ABP-307747-20

Development	Removal of part of existing wall, and the construction of detached house.
Location	Site between 2, Lough Conn Road, & 52 Drumfinn Road, Dublin 10
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	WEB1150/20
Applicant(s)	Aidan Flood.
Type of Application	Permission.
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Aidan Flood.
Observer(s)	Helena Scanlan, Michael & Marion Shelly, Brian & Cecilia Smyth, Paul Linehan & Jacqueline Reid
Date of Site Inspection	20/10/2020.
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The site is located in an established residential area on a site located between Drumfinn Road and Lough Conn Road, west of Chapelizod and North of Ballyfermot and is approximately 7km west of Dublin City Centre.
- 1.2. The site is located between two dwellings at No. 52 Drumfinn Road and No 2 Lough Conn Road. Currently the site is divided from both dwellings with a rail fence to the east and a low level wooden fence to the west. A low level wall bounds the site to the public path and road. A higher level wall is located within the site and adjoins a painted boundary wall that runs perpendicular to the side of No. 2 Lough Conn Road.
- 1.3. The site has a stated site area of 314 sq.m. The site has an unusual footprint with c. 10m of road frontage to the Lough Conn Road, before widening behind the high level wall referred to above to c.17m before narrowing again into a triangular shape. The site ranges from 25.4m to 32.24m deep. It would appear that the site once formed part of the private amenity space of either dwelling No. 2 or 52, with a substantial part of the site located directly behind the front garden and wall clearly in the ownership of No.2.
- 1.4. Both dwellings No.2 and No.52 are two storey end of terrace dwellings with standard pitch roofs. Number 52 Lough Conn Road and it's terrace is set at an angle to the Lough Conn Road with its gable wall and two first floor windows facing over the site.
- 1.5. The junction of Drumfinn Road and Lough Conn Road is defined by a large roundabout. A National School is located on the opposite side to the north west of this roundabout.

2.0 Proposed Development

- 2.1. The applicants have applied for-
 - Construction of a two storey, three bed house with, protruding flat roof two storey element to front and side and a single storey rear annex (126 sq.m in total)
 - Removal of part of existing wall
 - Rear Private Open Space of 125 sq.m

- Vehicular entrance with parking for two vehicles.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission on the 02/07/20 for the following reasons-

1. Having regard to the siting, orientation, width, scale, roof form, fenestration and the setting of the majority of the front elevation behind a neighbouring garden wall, the proposed development would be incompatible with the character of existing residential development in the area and would consequently appear incongruous and harmful to the visual amenity of the street, and would fail to deliver an acceptable quality of residential accommodation for future occupiers, contrary to Section 16.10.9 (Corner/ Side Garden sites) of Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
2. The proposed development, by creating a significant reduction in the private rear garden area of No. 52 Drumfinn Road, and due to the siting, footprint and scale of the proposed dwelling, would result in an unacceptable impact on the amenity of the occupiers of the neighbouring property by virtue of creating an overbearing relationship and causing overshadowing to that property, contrary to Section 16.10.9 (Corner/ Side Garden sites) of Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1. Planning Reports

The recommendation to refuse permission in the Planner's Report reflects the decision of the Planning Authority. The main points are outlined as follows:

- The construction of a dwelling would be acceptable in principle having regard to the zoning.

- Proposed design is very similar to that refused under 1384/18
- The house width, fenestration, orientation, layout, scale and design are at odds with the character of surrounding development.
- Due to the size of the rear garden and to number 52 Drumfinn Road and the proximity and scale of the proposed development the proposal will have an overbearing impact on private amenity space to No. 52.
- Proposal is acceptable as regards access and parking.

4.2. **Other Technical Reports**

- Transportation Planning Division- No objections subject to conditions
- Drainage Division- No objections subject to conditions

4.3. **Prescribed Bodies**

- None

4.4. **Third Party Observations**

Two third party submissions were made to the Planning Authority from-

- Helena Scanlon of 52 Drumfinn Road
- Paul Linehan, Jacqueline Reid, Marion & Michael Shelly, Cecilia Smyth & Brian Smyth of 50, 46 and 48 Drumfinn Road

There concerns can be summarised as follows-

- Incorrect address of application
- Loss of light
- Overlooking
- Traffic safety
- Design not in keeping with area
- Drainage issues
- Devalue existing properties

The above have together lodged one observation on the appeal. Some of the issues raised above are outlined in more detail in section 7.4 below.

5.0 Planning History

- Web1384/18, 1 No. 2 storey Detached dwelling house, new vehicular entrance, 17-Sep-2018, Refused for one reason on grounds of incompatibility with the character of adjacent terraced houses, overbearing and overshadowing of neighbouring property, seriously injurious to the amenities of potential residents and to the visual amenity of property in the vicinity.
- Web1011/18, 2 No. 2 storey Semi-detached dwelling houses with converted attic space, vehicular entrance, 07-Mar-2018, Refused for one reason on grounds of substandard access to natural light and ventilation, by reason of its proximity, massing and orientation, would overlook, overbear and overshadow neighbouring residences, incompatibility with the established character of adjoining dwellings, seriously injurious to the amenities of property in the vicinity

6.0 Policy Context

6.1. Ministerial Guidelines-

The following section 28 guideline is considered relevant-

- Sustainable Residential Development in Urban Areas (2009) Chapter 5 section 5.9 (d) Inner suburban / infill (i) Infill residential development-
“.....In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority’s views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc. Local authority intervention may be

needed to facilitate this type of infill development, in particular with regard to the provision of access to backlands.”

6.2. Dublin City Development Plan 2016-2022

6.2.1. The appeal site has a zoning objective ‘Z1 - Sustainable Residential Neighbourhoods’ within the Dublin City Development Plan 2016-2022, with a stated objective *‘to protect, provide and improve residential amenities’*.

6.2.2. Relevant planning policies and objectives for residential development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. The following sections are of particular relevance-

- 16.10.2 Residential Quality Standards – Houses
- 16.10.9 Corner/Side Garden Sites
- 16.10.10 Infill Housing

6.3. Natural Heritage Designations

- The site is located c. 650m west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).
- The site is located c. 650m west of the South Dublin Bay pNHA.

6.4. EIA Screening

Having regard to the limited nature and scale of the proposed development it is considered that 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.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of this first appeal can be summarised as follow-

- The proposal is an innovative contemporary design that provides a dwelling unit of quality for future occupants in a manner that integrates the new building into the area.
- A preplanning consultation was held. It was agreed that a contemporary design would be considered on the site and the development was generally agreed as acceptable in principle.
- The proposed design was developed in line with section 16 of the Development Plan.
- Lands to the front of the boundary wall is in the ownership of No 2 Lough Conn Road. The dwelling has been designed setback 1m from this wall.
- The siting of the property does not diminish the amenity of existing or proposed dwellings. The design has taken overlooking and overshadowing into consideration while achieving the building line.
- The design keeps the form of surrounding properties in relation to ridges/eaves height, window patterns etc.
- Reference is made to 3574/04. There is a strong precedent for approving corner site developments.
- The appeal refers to the zoning of the site, a number of objectives and the Development Standards as set out in the Development Plan.
- In relation to the DCC planners comments the following is noted
 - The proposal integrates well
 - The proposal picks up the rhythm and proportions of the surrounding development
 - The ground floor space would be largely lit from the full length south facing windows

- Overlooking to the front garden cannot be regarded as a serious issue in this context.
- The garden to No 52 has been its size for many years and the house was sold and purchased with this garden. It is incorrect to say the current proposal would result in an unacceptable reduction in the rear garden area of No 52 Drumfinn Road.

7.2. Planning Authority Response

- No response received to the grounds of appeal.

7.3. Observations

One observation was received from the four parties who made two submissions to the Planning Authority. The issues raised can be summarised as follows-

- The previous owner of 52 Drumfinn Road subdivided the site and sold the side garden element separate to the dwelling.
- The location size and irregular shape of the site means any development would involve a design that is haphazardly shaped, incongruous, and out of character with the prevailing pattern of established housing in the area.
- It is accepted that infill housing is acceptable in principle, it is submitted the subject site is not suitable due to its complex shape, predominantly to the rear of neighbouring houses. It is more akin to backland development and has potential to overlook adjoining properties.
- Windows to the front elevation would directly overlook private amenity space. Obscured glazing can be opened.
- When the site was subdivided it left a triangular shape to the rear of No. 52 that offers little amenity space for that house. The proposal would further exacerbate this deficiency and would lead to a loss of privacy from overlooking.
- The proposed front elevation fails to accord with the prevailing design and would appear incongruous in juxtaposition to adjacent properties. The

proposal would be substandard and fortified behind the defensive wall. It does not address the street in a positive manner.

- First floor obscure windows would give a perception of overlooking to the neighbouring front garden and would devalue that property by reducing its amenity.
- The proposal does not accord with the residential amenity requirements of the DCC Development Plan

8.0 **Assessment**

8.1. **Main Issues**

8.1.1. I have examined the application details and all other documentation on file, including the submission received in relation to the appeal and the third party observations. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I consider that the relevant issues for consideration in this appeal are as follows-

- Zoning
- Impact on Character of the Area
- Impact on Residential Amenity
- Appropriate Assessment

8.2. **Zoning**

8.2.1. The site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect, provide and improve residential amenities'. The use is acceptable in this zoning.

8.3. **Impact on Character of the Area**

8.3.1. The Planning Authority considers that the proposed development would be incompatible with the character of existing residential development in the area and

would consequently appear incongruous and harmful to the visual amenity of the street.

- 8.3.2. The appellants argue that the proposal is an innovative contemporary design, that addresses the unique site layout and potential impacts on adjoining residential properties while integrating well into the established residential area.
- 8.3.3. The application proposes a two storey, narrow plan, contemporary style house with a flat roof two storey front protruding feature to its north east side. The two storey element of the dwelling respects both the front and rear building lines of the area with a single storey element located to the rear. The width of the dwelling differs from the existing pattern of development in the area but in general I have no major concerns over the design of the proposal at this location.
- 8.3.4. There is an existing wall that is set back from the front building line of No. 2 Lough Conn Road that runs perpendicular from No.2, across its side garden and across the application site. This wall and a low level rail fence demarcates the side and front garden of No 2 Lough Conn Road from the application site. A substantial proportion of the proposed two storey house is located behind the perpendicular wall and directly behind the area of side and front garden to No 2 Lough Conn Road. The application proposes three obscure glazed windows at first floor level and a high level obscure glazed window at ground floor in order to address concerns of overlooking to the side and front garden of No 2 Lough Conn Road.
- 8.3.5. The siting of the house behind this wall, to the rear of lands not within the applicants control would create haphazard, disorderly development that would be incongruous to the general residential character of the area. The house would be overbearing, visually incoherent and would intrude upon the residential amenity of the occupiers of No 2 Lough Conn Road and their enjoyment of their property. The proposal would be contrary to the proper planning and sustainable development of the area.

8.4. Impact on Residential Amenity

- 8.4.1. The Planning Authority considers that the development would result in an unacceptable impact on the amenity of the occupiers of the neighbouring property by virtue of creating an overbearing relationship and causing overshadowing to No. 52

Drumfinn Road. They also consider the proposed house would fail to deliver an acceptable quality of residential accommodation for future occupiers.

- 8.4.2. The appellants argue that the house design addresses the potential impacts on adjoining residential properties.
- 8.4.3. Having considered the site's orientation, the house will not lead to significant overshadowing and subsequent loss of amenity to neighbouring property in the area.
- 8.4.4. There is a proposed separation distance of 2.48m between the western gable wall of the house and its nearest point to the rear of the house at No. 52. The two storey element of the house generally maintains the rear building line of the houses at No. 52 and No. 2 Lough Conn Road. I do not consider the proposed house will have an overbearing impact in this regard.
- 8.4.5. The internal layout, aspect and orientation of the house including the provision of 125 sq.m of private open space are generally in excess of the requirements of Section 16.10.2 of the Development Plan and as such I am satisfied the house meets Residential Quality Standards.
- 8.4.6. The first floor rear windows are orientated south and setback a minimum of c 10m from the rear site boundary. I am satisfied these windows are orientated and set back sufficiently from the private open space to No. 50 and 52 Drumfinn Road to avoid undue overlooking in this context.
- 8.4.7. No. 52 Drumfinn Road has a small triangular shaped area of private open space. The first floor windows of this dwelling are located c 5m to 10m from the proposed private open space. This will lead to overlooking and loss of privacy for the intended occupants of the proposed dwelling. The proposal would be contrary to the proper planning and sustainable development of the area.

8.5. **Appropriate Assessment**

Having regard to the nature and small scale of the proposal and the distance from 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 or projects, on a European site

9.0 Recommendation

- 9.1.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. It is considered that the proposed development, by reason of its siting behind a boundary wall and to the rear of lands not within the applicant's control would lead to haphazard, disorderly development that would be incongruous to the established residential character of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the siting and proximity of the proposed development relative to the front and side amenity space of No.2 Lough Conn Road, it is considered that the proposed development would have a negative impact on the residential amenity of No.2 Lough Conn Road by virtue of overbearing, visual impact and intrusion. Furthermore, it is considered that the proposed private open space would significantly suffer from overlooking and subsequent loss of privacy from No. 52 Drumfinn Road. The proposed development would therefore be contrary to the zoning objective of the site which is to protect, provide and improve residential amenities as set out in the Dublin City Development Plan 2016-2022. As such the proposed development would be contrary to the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

02nd November 2020