



An
Bord
Pleanála

Inspector's Report

ABP-307799-20

Development	Demolition of a single storey side extension to house and construction of a new two storey detached house.
Location	57 Biscayne, Malahide, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0148
Applicant(s)	Richard Grimes & Emily Geraghty.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Richard Grimes & Emily Geraghty.
Observer(s)	DAA.
Date of Site Inspection	9 th October 2020.
Inspector	Elaine Sullivan

1.0 Site Location and Description

- 1.1. The appeal site is located within Biscayne residential estate, which is accessed off the Coast Road (R106) on the east side of Malahide and approximately 14km northeast of Dublin city centre. It occupies a corner site that projects outwards on the western side in order to accommodate a hammerhead turning circle to the rear of the site.
- 1.2. It has a stated area of 0.42ha and contains a 2-storey semi-detached house with single-storey extension to the side. There is a wide vehicular access of approximately 5.8m in place to the front of the house. The site boundary comprises a low wall of approximately 1m to the front which steps up in height to 2.3m to the side and rear of the house. The topography of the site rises slightly from the front to the rear with the neighbouring houses to the west at a noticeably higher level.
- 1.3. The immediate surrounding area is primarily characterised by rows of semi-detached houses, fronting onto tree-lined streets. The houses have been designed with projecting elements at ground floor level, many of which have been altered and extended.

2.0 Proposed Development

Planning permission is sought for the following;

- The demolition of a graduated single storey domestic extension of 48.5m² to the side of an end of terrace, semi-detached 2 storey dwelling,
- The construction of a detached, 2 storey dwelling of 115m² in the side garden of an existing 2 storey dwelling with associated drainage and landscaping works,
- Works to front boundary to include additional vehicular entrance.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the Planning Authority for the following reasons;

1. The proposed dwelling by virtue of its design, height, scale and shared access on a prominent site would be visually obtrusive and out of keeping with the existing pattern of development and together with the adhoc arrangement of the site to the rear and need to incorporate the development into the western boundary all contribute to represent overdevelopment of a restricted site and would be contrary to Objective DMS39 and Objective DMS40 of the Fingal Development Plan 2017-2023 which sets out the parameters for the provision of appropriate infill / corner site development.
2. The proposed development of a 3 bed, 4 person dwelling would not provide a sufficient minimum width to the living room, resulting in substandard accommodation which would impact upon the internal residential amenities of the future occupants in terms of functionality and would be contrary to Objective DMS24 of the Fingal Development Plan 2017-2023 which seeks to 'Require that new residential units comply with or exceed the minimum standards as set out in tables 12.1, 12.2 and 12.3.
3. The separation distance between the proposed and existing house on site is substandard and in the absence of a suitable comprehensive approach to the external rear access serving each dwelling, the proposed development would be at variance with Objective DMS29 which seeks to 'Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units'.
4. In the absence of a detailed determination of the surface water main and the watermain located in the road adjacent to the application site, the development in its proposed form would be prejudicial to public health.
5. The development in its proposed form would be contrary to the policies and objectives of the Fingal Development Plan 2017-2023 and would not be consistent with the proper planning and sustainable development of the area. To permit the proposed development would set an undesirable precedent for other similar development within the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Planning Officer's report, (July 2020), reflects the decision of the Planning Authority. The report concluded the following;

- The proposed works are acceptable within the RS – Residential zoning for the site.
- The principle of infill development has been established throughout the area and would not be incongruous with the character of the area. However, not every corner site is appropriate for infill development and any proposed development should integrate appropriately.
- The proposed dwelling would breach the established front building line by c. 2.1m across both floor levels. It would be significantly narrower than the existing houses and the ridge height would be 0.6m higher.
- All of these design details combine to render the subject proposal visually incongruous and out of character with the overall pattern of development within the area.
- The western boundary of the site tapers to the rear and as such the rear garden of the proposed dwelling would be long and narrow and would not provide a usable open space for future residents. The living room would also be a substandard width.
- A separation distance of 1m would be provided between the new and existing dwelling and would result in eliminating external rear access for the existing dwelling, which is contrary to Objective DMS 29.
- It is contended that each of the above issues raised together with the proposed incorporation of a single storey side projection to form the boundary wall all contribute to the overdevelopment of the site.
- The proposed development would not result in overlooking or overshadowing of adjacent properties.

- The new dwelling would connect to the mains water and foul water systems in place. There is an existing surface water sewer in place within Biscayne Road to the west. A minimum separation distance of 3m is required between the proposed development and the sewer.
- Reference is made to the provision of a soakway in the rear garden. However, due to the restricted nature of the garden it is unlikely that a soakway could be accommodated in accordance with the requirements of BRE Digest 365 and the GDSDS.

3.3. Other Technical Reports

- **Water Services Department** – Records indicate an existing surface water sewer within Biscayne Road to the west. A minimum clear distance of 3m is required between this sewer and any part of the proposed development. The applicant is requested to submit an acceptable surface water drainage design and details. If the proposal includes a soakway it must comply with BRE Digest 365 and the GDSDS.
- **Transportation Planning Section** – Further information is requested to include a revised layout with the parking areas to the front segregated and properly delineated. The shared access should be split into two separate access, neither of which should exceed a maximum width of 4m.

3.4. Prescribed Bodies

- **Dublin Airport Authority** – The proposed development is within Noise Zone C. It is recommended that specific conditions be attached in order to address the issues related to Noise Zone C.
- **Irish Water** – Further information is required with regard to water supply and foul water layout drawings and details.

3.5. Third Party Observations

None received.

4.0 Planning History

4.1. No recent planning history for the subject site.

On sites in proximity;

- **PL06F.248067, (PA Ref. F16A/0385) – 110 Biscayne** – Planning permission granted by An Bord Pleanála in May 2017 for the construction of a 2 bedroom house in a side garden.
- **F07A/0849 – 21 Biscayne** – Planning permission granted by the Planning Authority in January 2008 for a detached, two storey, four bedroom house to the side of No. 21 Biscayne.
- **F02A/0063 – 48 Seapark** – Planning permission granted by the Planning Authority in July 2002 for a detached, two storey house on a corner site.
- **F02A/1178** – Planning permission granted by the Planning Authority in November 2002.

5.0 Policy Context

5.1. Development Plan

The appeal site has a zoning objective 'RS - Residential' within the Fingal County Development Plan 2017-2023 with a stated objective to “provide for residential development and protect and improve residential amenity”. The vision is to ensure that any new development in existing areas will have minimal impact on and enhance existing residential amenity.

Section 3.4 of the Development Plan outlines Council policy generally encouraging development of underutilised infill, corner and backland sites in existing residential areas and contains the following objectives;

- Objective PM44; Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

- Objective PM45: Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

Section 12.4 – Design Criteria for Residential Development, sets out the quantitative standards for new residential development. The proposed dwelling would be a 3 bed – 4 person dwelling. Table 12.1 of the Development Plan requires that a dwelling of this type should have a gross floor area of 83m² with a main living room of 13m² and an aggregate living area of 28m². A minimum of 60sqm of private open space behind the front building line is also required for a 3-bedroom house.

Section 12.4 also contains the following objectives;

- Objective DMS29; Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.
- Objective DMS39 - New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.
- Objective DMS40: New corner site development shall have regard to:
 - Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
 - Impact on the amenities of neighbouring residents.
 - The existing building line and respond to the roof profile of adjoining dwellings.
 - The character of adjacent dwellings and create a sense of harmony.
 - The provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain.
 - Side/gable and rear access/maintenance space.
 - Level of visual harmony, including external finishes and colours.

5.2. Natural Heritage Designations

No designations apply to the site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal, as raised in the submission from the first party appellant can be summarised as follows;

- A set of drawings were submitted with the appeal that seek to address and clarify issues that were highlighted by the Planning Officer in their assessment. No amendments or material alterations to the proposed development are included in the drawings.
- The appellant contends that the proposed dwelling is not out of character with the overall pattern of development in the area as is evident from the numerous examples infill development of different styles.
- It was acknowledged in the Planning Officer's report that the proposal would not result in overshadowing or overlooking of adjoining properties. It would also meet the Development Plan standards in terms of gross floor area and private open space.
- A south-facing garden of 69m² would be provided to the rear, which is in excess of the minimum requirement. There is no basis to the assertion of the Planning Officer that this would be an 'unusable' space. It is also stated that the living room would be of substandard width. This room would have a floor area of 17m² with a general width of 4.3m with a small section at 3.6m, which exceeds Development Plan standards. Dedicated storage areas of 4.8m² can be provided throughout the dwelling and are marked on the drawings submitted with the appeal.
- The proposal does not breach the front building line at ground and first floor levels. It is aligned with the ground floor building line and the first-floor element matches this to 'bookmark' the terrace.

- The topology of the site and the surrounding area was not taken into consideration when assessing the height of the proposal. The difference in ridge height is minor in the overall context where the houses to the west and south are significantly higher. The low-pitch roofs of the houses in Biscayne reflects the construction methods of a specific time. It is now the norm to build domestic roofs with a pitch of 35-40 degrees to accommodate conversion. If the Board is of the view that a lower pitch would improve the design and help to integrate the proposal this could be imposed as a planning condition.
- The Transport Planning Section of the Planning Authority have expressed a preference for separate vehicular entrances for each house. Whilst the applicants would prefer to have a shared entrance, they are also happy to provide two separate entrances of 3.5m if this is required. Drawing submitted with the appeal show how this can be accommodated.
- One of the reasons for refusal is that the proposal is at variance with Objective DMS29 which seeks to ensure a separation distance of at least 2.3m between the side walls of detached, semi-detached and end of terrace units. It is the applicants intention to maintain a Right of Way over the passageway between both dwellings to provide rear access to both dwellings. Drawings submitted with the appeal have been updated to highlight this.
- In response to the drainage issues raised, additional Engineers drawings are submitted with the appeal to illustrate the locations of site services. It is noted that both the existing foul and surface water mains are well outside a 3m wayleave from the boundary of the site. Records of the existing watermain to the side of the site appear to indicate that it is approximately 1.2m from the boundary. Whilst Irish Water have a default policy of requiring a 3m wayleave to watermains, they routinely accept a 1m wayleave where the foundation is designed not to bear upon the pipe. Updated Engineers drawings enclosed with the appeal illustrate the proposed foundation type to be used, which will facilitate a 1m wayleave to the existing watermain. This has been agreed in principle with Irish Water. Technical compliance with drainage and Irish Water requirements can be readily met.

- The Planning Officer noted that the soakway for surface water run-off proposed might not comply with BRE Digest 365 and indicated that a proposal involving water butts with an overflow connection to the surface water main would be acceptable. Drawing 20-202/607 submitted with the appeal illustrates compliance with SUDS using water butts and overflow connection.
- Whilst the architectural style of the new dwelling is distinctively different, it is not out of character with the overall pattern of development. A 'Local Planning Precedent Study' was submitted with the application which demonstrates that infill development of the type proposed is actually quite typical of the area.

6.2. Planning Authority Response

A response from the Planning Authority was received on the 3rd September 2020 and includes the following comments;

- The proposal was assessed against the policies and objectives of the Fingal Development Plan 2017-2023 and existing government policy and guidelines. The proposal was assessed having regard to the development plan zoning objective as well as the impact on adjoining neighbours and the character of the area.
- The revised details demonstrating the right of way which would facilitate external rear access to the existing dwelling is noted and is considered acceptable.
- The proposed provision of two separate entrances is welcome to address the issues raised as part of the assessment.
- It is the contention of the Planning Authority that it would not be the desire for an infill dwelling at this location to be a replica of the existing dwellings within Biscayne. Objective PM45 seeks to 'Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area'.
- However, it remains the contention that the subject site is constrained and cannot accommodate an infill dwelling by virtue of the breach of the front building line together with the incorporation of the side boundary wall into the

development. As such it would not accord with Objective DMS39 and Objective DMS40 of the Fingal Development Plan, which seeks to ensure the appropriate integration of corner site/infill development.

- The proposed provision of an infill dwelling at this location is considered to be overdevelopment of the site.

6.3. Observations

- An observation was received from the DAA. The proposed development is within Noise Zone C. It is recommended that specific conditions be attached in order to address the issues related to Noise Zone C.

7.0 Assessment

Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of development
- Design & Layout
- Residential Amenity
- Drainage issues
- Appropriate Assessment

7.1. Principle of Development

The proposed development is compatible with the RS – Residential zoning objective for the site. Council policy, as outlined in Section 3.4 of the Development Plan, also encourages the development of underutilised infill, corner and backland sites in existing residential areas. Therefore, the principle of providing an infill dwelling to the side of an existing dwelling is acceptable.

7.2. Design & Layout

The grounds of appeal argue that the proposed development is not out of character with the established pattern of development within the residential area. Although the design of the new dwelling differs from the original development, it is still a traditional form with a double-pitched roof and a gable to the front and rear.

A variation to the established design and aesthetic is not an unreasonable design approach for an infill site and is acceptable. However, I would have serious concerns regarding the positioning of the proposed dwelling and the extent that it breaks the established front building line. In my opinion the established building line is formed by the primary front face of the buildings on the street, which in this instance is the uniform façade presented at ground and first floor level. The projections at ground floor level represent a small portion of the overall front façade and in my opinion are architectural features rather than a clearly defined building line.

The proposed development would project forward of the established building line by approximately 2.1m. In my opinion this would present an unsympathetic and unbalanced form of development which would dominate the site and would not respect the character and form of the existing dwellings on the terrace. This alone would warrant a refusal as the applicant has not had regard to the provisions of Objective DMS40 and the considerations required for corner site development.

The proposed height is also at variance with the adjoining property, with the ridge height approximately 0.6m higher. In my opinion the overall height of the infill development should respect the height of the adjoining property. However, this issue could be addressed by way of a condition should planning permission be granted.

The Planning Officer raised concerns regarding the proposal to incorporate the building into the side boundary along the western elevation. I would have no objection to this design approach if it is executed well, as it serves to maximise the space within the site.

7.3. Residential Amenity

Overall, the proposal would achieve the standards as set out in the Development Plan in terms of floor areas, room sizes and private open space. I do not share the concerns of the Planning Officer with regard to the room sizes and the quality of private open space to the rear, both of which are in excess of the Development Plan standards.

I note that external access to both rear gardens can be provided through a shared passageway between the dwellings and is detailed in the appeal drawings. I consider this approach to be a reasonable response to the concerns raised by the Planning Officer. Given the location and orientation of the proposed dwelling, it would not result in any undue overshadowing or overlooking of adjoining properties.

Drawings submitted with the appeal also demonstrate how the applicant can address the requirements of the Planning Authority in terms of the vehicular access to the site, which is considered to be acceptable.

7.4. Drainage Issues

In my opinion the issues raised with regard to the surface water drainage on the site have been sufficiently addressed by the information submitted with the appeal. The surface water sewer within the public road is shown as 3m from the site boundary, which is sufficient for the required wayleave, and the applicant has stated that the principle of a 1m wayleave to the existing watermain has been agreed in principle with Irish Water. The proposed soakway has been replaced with a combination of water butts with an overflow connection to the surface water main. Given the location of the site, within a developed and serviced area, this response is satisfactory and would be subject to compliance with the requirements of the Local Authority.

7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that

the 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

I recommend that planning permission be refused.

9.0 Reasons and Considerations

Having regard to the restricted nature and prominent location of this corner site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development breaches the established building line and by reason of its form and design would be visually obtrusive on the streetscape and out of character with development in the vicinity. The proposed development is not in accordance with Objective DMS40 of the Development Plan and would, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Deanne Sullivan
Planning Inspector

November 2020