



An
Bord
Pleanála

Inspector's Report ABP-308217-20

Development	Construction of a two-storey dwelling in the side garden of an existing dwelling.
Location	25 Ballyroan Crescent, Rathfarnham, Dublin 16.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0155
Applicant(s)	Aisling & Niall O'Byrne
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Aisling & Niall O'Byrne
Observer(s)	Paul & Eva McCarthy
Date of Site Inspection	9 th December 2020
Inspector	Fergal Ó Bric.

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.038 hectares, comprises the curtilage of number 25, Ballyroan Crescent, Dublin 16 – a two-storey semi-detached house with a single-storey kitchen/living room extension to the side and rear. The site is located on the western side of Ballyroan Crescent. There is on-site parking to the front of the existing house, with sufficient space to park two cars. The site slopes gradually downhill from west to east and from north to south
- 1.2. To the west of the site is number 2, Ballyroan Heights to the north/north-east is number 25, Ballyroan Crescent, both two storey dwellings with traditional pitched roofs. To the east is the local road to access the site. The roadside boundary comprises a wall and hedgerow at a height of approximately 1.8 metres, to the west is a walled and planted boundary with a height of approximately 2.4 metres. To the north is a low-level hedgerow within the curtilage of number 25, Ballyroan Crescent. There is extensive screen planting on the appeal site at present, much of which would be removed to cater for the development proposal.

2.0 Proposed Development

- 2.1. Permission is sought to construct a two-storey dwelling house, (one hundred and sixty five square metres, sq. m.), in four sections. A central flat roofed element is proposed which would link three separate mono-pitched elements with a vertical emphasis, of varying ridge heights between six and eight metres. Materials proposed to be used would include a variety of render, timber/metal cladding, concrete, a sedum flat roof and slate/tiles for the mono-pitch elements. The house would be located in the side garden of an existing two-storey semi-detached house – together with the provision of new vehicular entrance arrangements for the proposed house. It is proposed to connect to the public water supply and to public foul sewer. Surface water is to be discharged to a soakaway.
- 2.2. The appellants submitted a number of accompanying reports as part of the planning documentation including a planning report, a sustainability report, a daylight report and a services report.

3.0 Planning Authority Decision

By Order dated 21st August 2020, South Dublin County Council (SDCC) issued a Notification of decision to refuse planning permission for two reasons, which can be summarised as follows-

1. The proposed dwelling, by reason of its excessive height and depth and proximity of neighbouring residential properties including habitable room windows and their private amenity space, would result in a material and significant loss of light, overshadowing and unacceptable sense of enclosure. The proposed development would represent overdevelopment and would seriously injure the amenity of property in the vicinity, and would be contrary to the zoning objective of the area which seeks to protect and/or improve residential amenity.
2. The proposed dwelling by reason of its excessive width and roof profile would represent overdevelopment and fail to integrate and respond to the site and surrounding context, and detract from the visual amenity and character of the area. Accordingly, the proposed dwelling would have a negative impact on the visual and residential amenity of the area and is contrary to the provisions of the Development Plan.

4.0 Planning History

Appeal site:

I am not aware of any planning history pertaining to the appeal site.

Neighbouring site to south-west, (Number 2, Ballyroan Heights):

Planning reference number SD21B/0012, An Bord Pleanála reference number 307031-20. In August 2020, planning permission was granted by the Board, upholding the decision of SDCC, permitting the construction of a single storey sunroom extension to the side and rear of the dwelling and partial demolition of existing side wall, new window and rooflight to rear of dwelling and all associated site works.

To date development works have not commenced in relation to this permitted development.

5.0 Policy Context

5.1. Development Plan

The relevant document is the South Dublin County Development Plan 2016-2022. The site is zoned RES where the objective is “To protect and/or improve residential amenity”. Section 11.3.2 (ii) of the Plan deals with infill/garden sites, and states-

- The site should be of sufficient size to accommodate an additional dwelling (s) and an appropriate set back should be maintained from adjacent dwellings.
- The dwelling(s) should generally be designed and sited to match the building line and respond to the roof profile of adjoining dwellings.
- The architectural language of the development (including boundary treatments) should respond to the character of adjacent dwellings and create a sense of harmony. Contemporary and innovative proposals that respond to the local context are encouraged, particularly on larger sites which can accommodate multiple dwellings.
- Where proposed buildings project forward of the prevailing building line or height, transitional elements should be incorporated into the design to promote a sense of integration with adjoining buildings.
- Corner development should provide a dual frontage in order to avoid blank facades and maximise surveillance of the public domain.

5.2. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal by Aisling & Niall O'Byrne, received by An Bord Pleanála on 17th day of September 2020, can be summarised as follows-

Design and Layout:

- All relevant house design standards were observed in the submission of this planning application.
- A series of reconfigured designs are submitted for the consideration of An Bord Pleanála – A-B.
- Reconfiguration A has an increased set back from the boundaries with number 2 Ballyroan Heights and number 25 Ballyroan Crescent, a reduction in overall floor area from 177 sq. m. to 165 sq. m.) and omission of the proposed front garden shed.
- Reconfiguration B incorporates the setbacks as set out within option A and modifications to the direction of the proposed mono pitch roof adjoining number 25 Ballyroan Crescent, in order to be consistent with the roof pitch number 25, Ballyroan Crescent.

Residential Amenity:

- A daylight report has been submitted and sets out that as the appeal site is located north of the observers property, that the proposed dwelling would not cause undue overshadowing of the garden area at number 2, Ballyroan Heights, or loss of light to the dwelling or garden area within that property.
- The reconfigured garden of number 25, Ballyroan Crescent will mean that overshadowing and loss of light will not occur to a significant extent and would accord with BRE Guidelines in relation to sunlight in external spaces.
- In terms of loss of sunlight to the kitchen area of number 25, Ballyroan Crescent, the appellants are proposing to modify number 25 (parental home of Niall O'Byrne) under exempted development provisions as set out within the Planning & Development Regulations 2001, (as amended). These modifications would involve the blocking up of the existing south facing

window ope, widening of the existing western kitchen window ope and provide an additional rooflight. These proposals would enhance the level of evening sunlight into the family home kitchen area.

- In terms of enclosure/overbearing impact, the aspect from the existing kitchen and dining room areas of Number 2, Ballyroan Heights to the boundary with number 25 Ballyroan Crescent is limited, given the modest size of their kitchen window, the proximity of the existing boundaries and the scale and nature of the existing boundary treatment, comprising a high fence and hedging with a height of approximately 2.4 metres.

The appeal is accompanied by drawings showing the two potential reconfigurations A & B.

6.2. Planning Authority Response

Response received outlining the following:

- The Planning Authority confirms its decision,
- The issues raised within the appeal have been covered in the planner's report.

6.3. Third Party Observation

A third-party observation has been received from Anne Marie Sheridan, Planning Consultant, on behalf of Paul & Eva McCarthy, of number 2, Ballyroan Heights, immediately west of the appeal site, and can be summarised as follows:

Design and Layout:

- The proposals by reason of their height, width and overly complex roof detail would create a visually incongruous feature in the context of the adjoining properties.
- The appellants revised proposals to modify the development as part of their appeal submission do not adequately address their concerns.

- The precedents referred to by the appellants within Appendix D of their appeal submission show that the majority of them reflect and respect the simplicity of existing architectural form, in terms of scale, height, roof profile, alignment of widths and frontages, unlike the current proposals.
- Appendix F of the appeal submission, illustrating aerial and street sketches are at such a small scale and such slight detail as to be almost illegible.
- There are several references within the appeal submission stating that the proposed development is north of number 2, Ballyroan Heights, when the proposed development would be to the east of number 2.
- The proposal cannot be considered to represent a typical suburban layout as setbacks and separation distances are not adequate to protect the amenity of neighbouring properties.
- The height of the two storey proposals in proximity to the party boundary would be visually dominant, would overpower the observers garden space and views from the eastern facing rooms.
- The proposal would represent overdevelopment of the site by virtue of the width and height of the proposed house, the site shape and configuration of the house on the site, the overly complex roof profile and proximity of neighbouring dwellings.
- The frontage width of the house is almost twice the width of the houses on either side and would result in the development on an over scaled dwelling in its context.
- The revisions to the roof profile as provided for by the appellants, as Option B, within their appeal submission adds another component to an already complex roof profile and will appear as visually incongruous in this context.
- The design of the two-storey property by reason of its scale, bulk and overly complex roof profile is inappropriate and unsuitable in its context and would unduly impact upon the amenities of the neighbouring residential properties.
- The modifications submitted as part of the planning appeal do not address these concerns.

Residential Amenity:

- The proposals would detract from the residential amenities of the observer's property by reason of overshadowing and visual overpowering.
- The sunlight and daylight report submitted as part of the appeal submission is of poor quality, it uses a basic online sketch tool and produces very unclear images.
- The observers commissioned an independent solar analysis, appended to their observation (Appendix A).
- Overshadowing of the observer's property will occur from sunrise until 9.30am all year around in the northern and north-eastern parts of their property
- They have a window and double doors from their kitchen/dining area into the garden area in the north-eastern section of their property, and a sunroom permitted by the Board to the side (east) of their property.
- The appellants acknowledge that some overshadowing will arise at number 25, Ballyroan Crescent. Overbearing of number 25 would also arise from the development proposals.
- The proposals would establish an undesirable precedent in terms of adversely impacting upon neighbouring residential properties.
- The private amenity space provided to the east of number 2, Ballyroan Crescent, measures 90 square metres approximately and benefits from the receipt of good quality sun and daylight and provides an attractive vista from their kitchen/dining areas.
- The massing of the proposals along its south-western elevation would create a visual over-powering and enclosure of number 2, Ballyroan Crescent, in addition to the limited 1.2 metre separation distance, would seriously damage the enjoyment of the observers garden area and impact upon the value of their property.

- The rooms most impacted upon within the observer's property would be their kitchen/dining room areas which have a direct aspect onto the garden area, and all are extensively used throughout the day.
- A blank façade, 1.2 metres from the boundary of the observer's property by reason of its proximity to the boundary and height would seriously impact upon the amenities of the observer's property.
- The first-floor master bedroom window on the rear elevation would result in direct overlooking of the observers rear garden space and impact upon the property value.

Other Issues:

- Any works proposed at number 25, are included outside of the red line appeal site boundary and therefore cannot be subject to any conditions under the consideration of the current appeal by the Board.
- The appellants did not have regard to the planning precedents in the area referred to within the pre-planning notes provided by the Planning Authority.
- The observers acknowledge that the appeal site has potential for development, on a site which is challenging by virtue of its shape and configuration.

7.0 **Assessment**

7.1. **General Comment**

The principal of erecting a house in the rear garden of no. 25 Ballyroan Heights is not at issue in this instance, rather the positioning of the house, its design and layout. The proposals in relation to access and servicing are considered acceptable. The following are therefore considered to be the principal planning issues that arise from the appeal and observer submissions:

- Principle of Development
- Layout and Design

- Residential Amenity
- Other issues
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The site is zoned RES as per the Development Plan where the zoning objective to: To protect and/or improve residential amenity. Therefore, the principle of the development would be acceptable in principle subject to an appropriate design and layout being presented, and that the residential amenity of neighbouring properties is respected. These matters will be addressed in detail below.

7.3. Layout & Design

- 7.3.1. I would see no difficulty with the principle of siting of a second house within the curtilage of number 25, Ballyroan Crescent. The design proposed is two-storey, with a flat roofed central section and three mono-pitched roof sections that extend vertically at second floor level. The width of the dwelling frontage at approximately 15 metres would be considerably wider than the prevailing width of the dwelling frontages on either side of the appeal site, which are approximately nine metres wide. The proposed dwelling would be set back approximately 3.5 metres from the edge of the public carriageway. Separation distances from the neighbouring dwellings would be 1.2 metres to the west and a similar separation distance from the gable of number 25 Ballyroan Crescent. The kitchen window of number 25, which the appellants state would be blocked up under these proposals would be located approximately 1.64 metre from the northern gable of the proposed dwelling . It is noted that Number 25 is located outside of the appeal site boundary.
- 7.3.2. The design, layout, bulk and scale would need to be carefully considered having regard to the irregular site configuration, as the site narrows towards the road frontage to a width of approximately seven metres. Therefore, a bespoke design solution would be required, which would respect the established character of the streetscape and the amenities of the neighbouring residential properties. The design as presented, represents a bespoke design, and contemporary designs are provided for within Section 11.3.2 (ii) of the Plan for infill/garden sites. Section 11.3.2(ii) sets

out that the design and siting should respond to the roof profile of adjoining dwellings. In this regard, the difficulty lies with the two-storey, mono-pitched elements of the house, which results in an overly complex roof profile and would be incongruous within this particular setting. The width of the house is considerably wider than the established frontages within the streetscape and as a result would be constructed in close proximity to both the western and north-eastern boundaries. The appellants have submitted revised proposals as part of their appeal submission, whereby separation distances are increased slightly.

- 7.3.3. Contiguous elevations have been submitted by the appellants, which confirm the incongruous nature of the proposals, when considered within the context of the established streetscape. Another of the requirements set out with Section 11.3.2(ii) is that the architectural language of the development should respond to the character of adjacent dwellings and create a sense of harmony. The floor area of the proposed house, as revised within the appeal submission is 165 sq. m. The proposed house on the appeal site would be constructed in close proximity to the western and northern boundaries – leaving just a narrow passage to the north and west. The mono-pitch roof of the two-storey elements would have a maximum height of approximately eight metres. The size and extent of this roof would render it domineering and over-bearing when viewed from neighbouring properties – arising from its proximity to boundaries to the west and north. The alternative roof proposals put forward by the applicant, by way of 1st Party appeal, would not result in any significant difference to the bulk, height or scale of the proposal. The scale, height, mass and bulk of the proposed dwelling would be out of character with the established pattern of development in the area, and in this instance would be considered contrary to the proper planning and sustainable development of the area.
- 7.3.4. Overall, in its current form, it is considered that the proposed development would have an adverse impact upon the visual amenity of the area, given its design, massing, scale, height and overly complex roof profile would therefore, be contrary to the proper planning and sustainable development of the area..

7.4. Residential Amenity

- 7.4.1. Regard is had to matters raised by the Planning Authority and the observers with respect to the proposed dwelling being overbearing from the perspective of the

dwellings to the west, at number 2, Ballyroan Heights and number 25, Ballyroan Crescent, due to the scale, massing, height and form of the proposed dwelling. Minor changes to the house design and layout and on the impact on neighbouring amenities were forthcoming from the appellant as part of their appeal submission.

- 7.4.2. I note the applicant submitted a contextual elevation as part of the planning documentation. This illustrates that the design of the proposals is a contemporary one, very different to the design of the neighbouring properties. Contemporary design is something that is provided for within Section 11.3.2 (ii) of the Development Plan. The pre-dominant house type in the area is two-storey with a hipped style roof.
- 7.4.3. A daylight/sunlight analysis has also been submitted by the appellants and a separate one prepared by the observers. Having reviewed the documentation submitted, I consider that the proposals would have an adverse impact upon the residential amenities of the neighbouring property to the north by reason of overshadowing and loss of light. The impact upon number 25, Ballyroan Crescent is acknowledged by the appellants, where they state that they would block up a south facing kitchen window within number 25, widen the western kitchen window opening, and insert an additional rooflight to compensate for this loss of light if this development proposal is permitted. It is therefore, considered, that due to the orientation of the appeal site, the height and scale of the proposed dwelling, that the proposals would unduly impact upon the residential amenities of the neighbouring property to the north by virtue of overshadowing and loss of light.
- 7.4.4. It is apparent that the side garden space of number two, Ballyroan Heights would also be impacted upon, by virtue of overshadowing, in the early morning time. However, this overshadowing impact would be for a brief period in the early morning and would impact most upon the eastern and north-eastern sections of the garden, rather than impacting upon the habitable space of that property. The impact upon that property, would not be so adverse, to warrant a refusal of planning permission.
- 7.4.5. In term of overlooking, it is noted that the appellants would have a large bedroom window serving a bedroom at first floor level on the rear (north-west elevation). Within an urban environment, an element of overlooking is inevitable. The question is whether the extent of overlooking would unduly impact upon neighbouring amenities. However, given, the modest separation distances, from the nearest part

of the proposed dwelling to its rear boundary walls, which would comprise a two metre high boundary wall, any overlooking would be of the most north easterly and north-westerly parts of the neighbouring rear garden spaces. I am, therefore, not satisfied that the proposed design and layout, will adequately respect the amenities of the neighbouring residential properties in the vicinity of the site given the limited separation distances proposed. It is considered that the proposal would result in an adverse impact upon the amenities of Number 2, Ballyroan Heights and number 25, Ballyroan Crescent , by reason of overlooking from this first floor bedroom window, which would be located within 1.5 metres from the proposed rear boundaries.

- 7.4.6. Overall, in its current form, it is considered that the proposed development would have a negative impact upon neighbouring residential amenities by reason of loss of light and overlooking and would diminish their residential amenity so as to warrant a refusal of permission. Having regard to the location and irregular configuration of the site to the side of an existing dwelling and in close proximity to existing dwellings to the north and west, it is considered that the proposed development, by reason of the scale, bulk and height of the two-storey elements would seriously injure the residential amenities of property in the area and would, therefore, be contrary to the underlying zoning objective and with the proper planning and sustainable development of the area.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development, 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.

8.0 Recommendation

I recommend that planning permission be refused for the following reasons.

- 1 Having regard to the location of the site to the side of an existing dwelling and in close proximity to existing dwellings, it is considered that the proposed development, by reason of the scale, bulk and height of the two-storey elements would seriously injure the residential amenities of property in the area by reason of loss of light and overlooking and would, therefore, be

contrary to the underlying land use zoning objective and with the proper planning and sustainable development of the area.

- 2 Having regard to the restricted nature and prominent location of the site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development by reason of its scale, form, design and overly complex roof profile, would constitute overdevelopment of a limited site area, would be visually obtrusive within the streetscape and out of character with development in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Fergal O'Bric,
Planning Inspectorate.

10th December 2020