



An
Bord
Pleanála

Inspector's Report

ABP-308603-20

Development	Design revisions to previous grant to include increase in footpath and width of house.
Location	Site to the side of 62 Castleknock Park, Castleknock, Dublin 15, D15 PKW1
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW20A/0143
Applicant(s)	Coleman Mulgrew.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Coleman Mulgrew.
Observer(s)	None.
Date of Site Inspection	11 th of May 2021.
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site, has an area of 0.0494 ha, and is located to the east and within the curtilage of no. 62 Castelknock Park, Castleknock, Dublin 15. The site is currently undeveloped and located at the junction of Castleknock Park and Auburn Avenue. No. 62 Castleknock Park is a two storey detached house. The site is enclosed to the east by a c.2m high wall.

2.0 Proposed Development

- 2.1. The proposed development comprises amendments to the dwelling permitted on site under PA Ref: FW 19A/0228. The proposed amendments include the following:

- (1) An increase in the finished floor level to +150mm above footpath level on the street to allow for gravity fall to the existing drains;
- (2) Maintaining the permitted ridge height of +8.35 metres by altering the pitched roof to include a flat roof element and
- (3) Alterations to the width of the house to provide a side entrance to the east

3.0 Planning Authority Decision

3.1. Decision

Fingal County Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:

The proposed development by reason of its design and location on a prominent site at the eastern corner of Castleknock Park and in particular its roof profile and bulk, would be visually obtrusive and out of character with the pattern of development in the area, would be injurious to the visual amenities of the area and would contravene materially Objective DMS40 of the Fingal County Development Plan 2017-2023. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

Planning Reports

3.2.1. The planner's report reflects the decision of the planning authority. The following provides a summary of relevant points raised:

- The principle of the proposal is considered acceptable in accordance with the RS zoning objective and the permitted dwelling on site subject to an assessment of visual impact.
- The proposed development represents a profile on the eastern elevation, which is considered to be unduly inconsistent with, and abrupt in relation to, the form and nature of existing development within the area.
- The proposal would have a negative impact on the visual amenities of the area and would be contrary to Objective DMS40 of the Development Plan which requires that corner developments respond to the roof profile and character of adjoining dwellings.
- The amendments to provide a side entrance are considered acceptable.
- The proposed amendments would not result in negative impact on the residential amenities of the area.
- The proposed development is considered to detract unduly from the character and amenity of development in the area.

Other Technical Reports

Water Service Department: recommends additional information in relation to proposed rainwater harvesting units.

3.3. Prescribed Bodies

Irish Water: No objection subject to condition.

3.4. Third Party Observations

None.

4.0 Planning History

PA Ref: FW19A/0228 planning permission granted by Fingal County Council in July 2020 for the following development on the appeal site:

“Permission is sought for the construction of a part single/part two storey, detached, four-bedroom dwelling in the side garden area to include an attic conversion for storage use, off street parking for 2 cars, ancillary site works and connections to all services”.

The decision of Fingal County Council to grant permission for the development was subject to 12 no. conditions.

PA Ref FW17A/0086 planning permission granted in October 2017 for construction of a detached three bedroom dwelling with a floor area of 135sq.m. with additional site entrance and off street car parking for two cars, all associated site development works in the side garden. Retention permission was also granted for an existing rear 1st floor bay window to the existing property at no. 62 Castleknock Park.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site is located within the administrative boundary of Fingal County Council. The relevant plan is the Fingal County Development Plan 2017-2023.

Zoning

- 5.1.2. The site is zoned ‘RS’ under the Fingal County Development Plan 2017-2023, with an objective to *“Provide for residential development and protect and improve residential amenity.”*

Relevant Policies/Objectives

- 5.1.3. The following objectives of the Development Plan are of relevance to proposals for infill, corner and backland sites:
- 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.’

- PM45: ‘Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.
- DMS39: New infill development shall respect the height and massing of existing residential units. Infill developments shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

5.1.4. Objective DMS40 is also relevant to corner site developments, controlling such developments as follows:

‘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.’*

5.1.5. Objective DMS24 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”.*

5.2. Natural Heritage Designations

The site is not located within or adjacent to any Natura 2000 sites.

5.3. 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.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been submitted in respect of the decision of Fingal County Council to refuse permission for the proposed development. The following provides a summary of the issues raised:

- There appears to be an error in refusing permission outright for 1 reason. The application seeks permission for 3 separate design changes.
- The proposal does not contravene Objective DMS40 of the Development Plan. A case is made that this objective is somewhat general in nature. It doesn't state that new dwellings must be the same as adjoining dwellings rather than have regard to the neighbouring streetscape.
- Following on from the grant of permission under PA Ref FW19A/0228 it came to the attention of the applicant that gravity outfall of the foul and surface water drains on site was not possible due to the shallow depth of the existing sewers on the street outside the house.
- The proposal seeks to slightly revise the roof profile to provide a flat roof element to the roof space and allows for internal residential accommodation. Reference is made to precedent cases in the area at Pecks Lane (PA Ref FW19A/0051).
- The development as permitted incorporated a shared side entrance with no 62 Castleknock Park to the west of the property. A separate side entrance to the east is proposed in order to ensure privacy and avoid possible civil matters in the future. This design aspect appears undisputed by Fingal County Council and as such a grant of permission is respectfully requested.

6.2. Planning Authority Response

Correspondence from Fingal County Council dated the 7th of December 2020 outlines that the planning authority has no further comment.

In the instance of a grant of permission it is requested that a condition is included in accordance with the Council's Section 48 Development Contribution Scheme.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the first-party appeal in detail, the main planning issues in the assessment of the proposed development are as follows:

- Principle of development
- Visual impact
- Design and Layout
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The appeal site is zoned for RS purposes within the Fingal County Development Plan 2017-2023 with an objective to *“provide for residential development and protect and improve residential amenity”*.
- 7.2.2. The proposed development relates to amendments to the dwelling permitted on site under PA Ref: FW19A/0228. Residential is listed as a use which is permitted on lands zoned for RS purposes and the principle of a dwelling on the site has been established.
- 7.2.3. The principle of the proposal which relates to amendments to a permitted dwelling on the site can therefore be considered subject to design considerations and compliance with the relevant policies, objectives and development management standards set out within the Fingal County Development Plan 2017-2023.

7.3. Visual Impact

- 7.3.1. The decision of Fingal County Council to refuse permission for the proposal cites concerns in relation to the proposed revisions to the design of the dwelling particularly in terms of the proposed roof profile and bulk, which would render the proposal visually obtrusive and out of character with the pattern of development in the area.
- 7.3.2. The appeal site is located at a visually prominent location on the eastern corner of Castleknock Park at the junction of Auburn Avenue and Castleknock Park. The dwelling permitted on site under PA Ref FW19A/0228 included a flat roof to the north and a pitched roof profile along the eastern and western elevations. The proposed amendments seek to alter the roof profile from a pitched roof as permitted to a part flat roof. Drawing no. 02 (C) includes a cross section which illustrates an overlay of the permitted and proposed roof profile. The proposed revision to the roof profile is most evident from the side elevations. No increase to the overall permitted ridge height is proposed.
- 7.3.3. A justification for the proposed revision is set out within the application documentation. In this regard it is stated that the proposal seeks to slightly revise the roof profile to provide a flat roof element to the roof space which allows for internal residential accommodation. The requirement for a partial flat roof profile is a consequence of the proposed increase in finished floor level of the dwelling.
- 7.3.4. Fingal County Council's reason for refusal raises particular concern in relation to the impact visual impact of the proposal on the character of the area and compliance with the requirements of Objective DMS40 of the Fingal County Development Plan. Objective DMS40 outlines that new corner site development shall have regard to range of criteria including "the existing building line and respond to the roof profile of adjoining dwellings".
- 7.3.5. In considering the existing pattern of development within the area, I note that existing properties directly adjoining the site along at no. 62 Castleknock Park and no. 88 Auburn Avenue have hipped roof profiles. As illustrated within the attached presentation document a variety of pitched roof typologies including gable and hipped roofs are provided within Castleknock Park.

- 7.3.6. I note that the dwelling as permitted on site under FW19A/0228 does not mirror the design of existing dwellings in Castleknock Park. The dwelling presents a flat roof profile along its northern and most visually prominent elevation which fronts onto Castleknock Park. In this regard I consider that the principle of a varying roof profile has been previously accepted on the site.
- 7.3.7. I furthermore note the reference in the first party appeal to precedent cases where similar roof profiles to that currently proposed have been permitted in the surrounding residential areas. Specific reference is made to an existing development at Pecks Lane in this regard (as illustrated PA Ref FW19A/0051). I refer to the attached presentation document which includes images of the cited dwellings which are located adjacent to pitched roof dwellings. I do not consider that the juxtaposition of the varying roof typologies to be inappropriate in this regard.
- 7.3.8. On review of the proposed drawings, I have no objection in principle to the proposed amendments to the roof profile and do not consider the amendment to the roof profile to be overly bulky to the extent that would render the development inconsistent with the existing pattern of development or visual amenities of the area or contrary to guidance set out within Objective DMS40 of the County Development Plan.
- 7.3.9. I note the reference to material contravention of Objective DMS40 within Fingal County Council's reason for refusal. Having regard to the specific wording of Objective DMS40 which outlines that new corner site developments shall "have regard" to and "respond to the roof profile of adjoining dwellings". I do not consider that the wording of this objective is prescriptive in terms of determining a design approach which mirrors existing developments, rather it provides guidance in terms of visual compatibility with existing developments. I consider the reference to material contravention of Objective DMS40 within the planning authority's reason for refusal to be misplaced in this instance
- 7.3.10. I note that the principle of a contemporary style dwelling incorporating a partial flat roof design has been permitted on site and deemed in accordance with the policies and objectives of the Fingal County Development Plan including Objective DMS40. I do not consider that the proposed amendments to the roof profile would render the development to be out of character with the pattern of development in the vicinity.

- 7.3.11. Having regard to the above reasons and considerations, it is my view that, the Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.
- 7.3.12. In the instance that the Board considers the issue of material contravention to arise I refer to the design of the permitted dwelling on site which incorporates a flat roof profile along its northern and most prominent elevation and the existing pattern of development within the immediate area of the site which includes a mix of roof types as identified within the first party appeal. I consider the following provisions of Section 37 (2) (iv) to be applicable in this instance i.e.: *“permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan”*.
- 7.3.13. Having regard to the above reasons and considerations, I do not consider that the proposed amendments to the roof profile of the permitted dwelling would unduly impact on the character and setting of existing properties in the vicinity of the site or render the proposal contrary to Objective DMS40 of the Fingal County Development Plan. I therefore recommend that planning permission is granted for the proposal.

7.4. Design and Layout

- 7.4.1. On review of the planning authority decision and the planner’s report I note that the main area of concern underpinning the Council’s refusal relates to the proposed amendments to the roof profile of the dwelling. I have considered this element of the proposal under Section 7.3 above.
- 7.4.2. However, as detailed within the first party appeal the proposed amendments comprise 3 separate and distinct elements namely revisions to the finished floor level, revisions to the width of the dwelling to provide an eastern entrance and revisions to the roof profile of the dwelling. I consider the remaining elements of the proposal in turn as follows.

Increase in Finished Floor Level

- 7.4.3. The development as permitted under PA Ref: FW19A/0228 included a proposal to reduce the finish floor level to -0.450 below the footpath level on the ground outside the footpath. The proposal seeks to increase the finished floor level to +150mm above footpath level on the street to allow gravity fall and connections to the existing

foul and surface water drains. No revision to the overall height of the permitted dwelling is proposed as a result of the proposed increase in the finished floor level.

- 7.4.4. I have no objection in principle to this element of the proposal and note that no objection is raised within the submissions on file by Irish Water or the Water Services Department.

Alterations to the width of the house and proposed Eastern Side Entrance

- 7.4.5. The dwelling, as permitted under PA Ref FW19A/0228, incorporated a shared side entrance with no. 62 Castleknock Park to the west of the property. The proposal seeks amendments to the overall width of the property to an independent provide a side passageway to the east of the house in order to allow bin storage. A rationale for this element of the proposal is set out within the application documentation in order to ensure privacy and avoid possible civil matters in the future.
- 7.4.6. On review of both the permitted and proposed drawings I have no objection to the proposed amendments to the width of the dwelling to provide for an eastern site entrance. The internal dimensions and floor areas of the dwelling remain consistent with the guidance set out within Table 12.1 and 12.3 of the Fingal County Development Plan and the requirements of Objective DMS24. In overall terms I consider that the provision of an independent side access will enhance the overall residential amenity of the dwelling for future occupants. In visual terms, the proposed amendment has minimal impact from the adjoining streetscape along Auburn Road.
- 7.4.7. I furthermore note that no objection to this element of the proposal is raised within the planning authority's decision. The planner's report specifically outlines that the amendments to provide a side entrance are acceptable. I therefore recommend that permission is granted for this element of the proposal.

7.5. Other Issues

Rainwater Harvesting

- 7.5.1. The submission on file from the Water Services Department recommends a request for further information in relation to proposals for rainwater harvesting on site. I consider that this point can be addressed by means of condition in the instance of a grant of permission for the proposal. Such details are addressed within Condition no. 4(a) of the parent permission pertaining to the property under PA Ref FW19A/0228.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, which relates to amendments to a permitted dwelling, outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider 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 permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal Development Plan 2017-2023 the zoning for residential purposes, to the location of the site in an established residential area and to the nature, form, scale and design 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 be contrary to the requirements of Objective DMS40. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 28th day of July 2020 under Pl. Reg. Ref. no. FW 19A/0228, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

Stephanie Farrington
Senior Planning Inspector

12th of May 2021