



An
Bord
Pleanála

Inspector's Report ABP 310293-21

Development

Remove single storey link between main house and existing ancillary structure, alterations and extension to existing ancillary structure to create a separate dwelling and associated works.

Location

11 Beech Park Avenue, Foxrock, Dublin 18.

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/0218

Applicants

Suzanne and Philip Marr

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

1st Party v. Refusal

Appellants

Suzanne and Philip Marr

Observers

1. Darragh O'Sullivan

2. Grange Park and Foxrock Wood
Residents Association

3. Oliver Nestor

Date of Site Inspection

30/10/21

Inspector

Pauline Fitzpatrick

1.0 Site Location and Description

Beech Park Avenue, a cul-de-sac, is a mature residential area comprising of detached and semi-detached dwellings approx. 300 metres from Deansgrange neighbourhood centre.

No. 11 is at the end of the cul-de-sac and comprises of a detached, two storey hipped roof house with a single storey pitched roof timber clad extension to the side. By reason of the falls from north to south the dwelling is elevated over the cul-de-sac. Off road parking for a couple of vehicles is available in the front garden area which slopes steeply down to the footpath. The overall site is wedge shaped.

A lane bounds the site to the east connecting Grange Park and Foxrock Wood and is approx. 75 metres long, varying in width between 4 and 5 metres. A block wall which increases in height from north to south, topped with a timber fence, delineates the site's boundary to same. A gate allowing for pedestrian access from the lane to the site is in place.

2.0 Proposed Development

The proposal entails the removal of the link between the 2 storey dwelling and the single storey side timber clad extension and extension of the said annex to provide for a separate part single, part two storey, flat roofed 2 bedroom dwelling with a stated floor area of 127.1 sq.m. The dwelling is to be finished with timber cladding.

A garden shed in the rear garden is to be removed to facilitate the dwelling.

Pedestrian access to the dwelling is proposed from the existing gateway off the laneway bounding the site to the east. No off- street parking is to be provided with vehicular parking delineated on the said laneway

The plot is to be subdivided.

The application is accompanied by a Planning Statement and Parking Survey Report

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for 1 reason which can be summarised as follows:

Having regard to the size of the proposed dwelling, suburban location and lack of designated off street parking the proposal is contrary to section 8.2.4.5 of the County Development Plan, would set an undesirable precedent and would adversely affect the use of the existing road by traffic – ie. Clause 7 of the 4th Schedule (reasons for refusal of permission which exclude compensation), The proposal would therefore seriously injure the residential amenities of the area and depreciate the value of adjoining properties.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planner's** report in the Record of Executive Business Chief Executive's Order notes:

- The principle of the development is acceptable.
- The lack of designated off street parking is a concern. The 2 bedrooms, study and floor area is more akin to a 3 no. bedroom dwelling. A dwelling of this size at this location should provide 2 no. parking spaces. The lack of provision is contrary to section 8.2.4.5 (car parking standards) of the current County Development Plan and would set a poor precedent.
- The dwelling is designed to a high standard and can be satisfactorily absorbed at this location. Although the design represents a departure from the prevailing architectural style, the overall height, scale and form of the dwelling is generally commensurate with that of the properties in the vicinity.
- The proposal will not unduly compromise the residential amenity of adjoining property.

- It is unclear from the documentation how the existing timber structure will be retained as part of the proposal. It is likely that it may be required to be demolished to facilitate the proposal.

A refusal of permission for 1 no. reason recommended.

3.2.2. Other Technical Reports

Transportation Planning section considers that the lack of off-street parking may create inappropriate/illegal parking in the adjoining roads setting a precedent which would further injure the amenities of the area. The site is adjacent to a permeability laneway which shall be clear of obstructions for the use of pedestrians and cyclists. It is Council policy and National policy to promote and reserve through development management pedestrian permeability/linkages or potential future pedestrian permeability/linkages to adjacent neighbourhoods and facilities including public transport nodes. A refusal of permission is recommended.

Drainage Planning has no objection to the proposal subject to conditions.

3.3. Prescribed Bodies

Irish Water recommends further information requiring a pre-connection enquiry on the basis that wastewater infrastructure may be impacted.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the observations on the appeal received by the Board and which are summarised in section 6.4 below.

4.0 Planning History

D18A/1005 – permission refused for subdivision of the plot, removal of link to main house, construction of 1st floor to retained ground floor timber structure and construction of extension to said structure for use as a dwelling. The 2 no. reasons related to the location of the proposed vehicular entrance on the public laneway and

scale, massing and design of the dwelling which was considered to be overbearing in the context of the existing streetscape and adjoining laneway.

5.0 Policy Context

5.1. Development Plan

Dun Laoghaire Rathdown County Development Plan 2016

The site is within an area zoned A the objective for which is to protect and/or improve residential amenity.

Policy RES3 – to promote higher residential densities provided that proposed ensure a balance between the reasonable protection of existing residential amenities and the established character of areas with the need to provide for sustainable residential development.

RES4: Existing Housing Stock and Densification

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Implementation of this policy will necessitate the use of the Council's powers under planning - and other associated legislation - to:

- Encourage densification of the existing suburbs in order to help retain population levels - by 'infill housing. Infill housing in existing suburbs should respect or complement the established dwelling type in terms of materials used, roof type, etc.
- Actively promote and facilitate:
 - conversion of existing housing stock to accommodate a larger number of households - principally by subdivision of larger-than-average family houses - in well serviced urban areas.
 - development of mews buildings and other infill accommodation which is in harmony with existing buildings.

- Prevent any new development or change of use which would seriously reduce the amenity of nearby dwellings.

Section 8.2 deals with Development Management

Section 8.2.3.4 Additional Accommodation in Existing Built Up Area

(v) Corner/Side Garden Sites

Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.
- Building lines followed where appropriate.
- Car parking for existing and proposed dwellings.
- Side/gable and rear access/maintenance space.
- Private open space for existing and proposed dwellings.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.

- Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

8.2.4.5 Car Parking Standards

Car parking standards provide a guide on the number of required off-street parking spaces acceptable for new developments. The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the context of Smarter Travel, the Government policy aimed at promoting modal shift to more sustainable forms of transport.

Reduced car parking standards for any development (residential and non-residential) may be acceptable dependant on:

- The location of the proposed development and specifically its proximity to Town Centres and District Centres and high density commercial/business areas.
- The proximity of the proposed development to public transport.
- The precise nature and characteristics of the proposed development.
- Appropriate mix of land uses within and surrounding the proposed development.
- The availability of on-street parking controls in the immediate area.
- The implementation of a Travel Plan for the proposed development where a significant modal shift towards sustainable travel modes can be achieved.
- Other agreed special circumstances where it can be justified on sustainability *grounds*

Table 8.2.3 Residential Land Use – Car Parking Standards

Dwelling – 1 space per 1/ 2 bed unit and 2 spaces per 3 bed unit+ (depending on design and location).

5.2. **Natural Heritage Designations**

None in the vicinity.

5.3. **Environmental Impact Assessment**

Having regard to the nature and extent of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an 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**

The submission by Armstrong Planning on behalf of the 1st party appellants, which is accompanied by a copy of the Planning Survey Report submitted with the application, can be summarised as follows:

- Suzanne Marr and her son Philip are joint appellants. Both live at No.11. Mr. Marr and his family primarily make use of the annex which is connected to the main house through a link. The link is to be removed in conjunction with the proposed subdivision of the dwelling and the plot.
- The development plan encourages subdivision of existing dwellings under section 8.2.3.4(ii).
- Policies RE53 and RE54 seek to increase residential density.
- The proposal which does not provide for parking is in accordance with national policy guidance that encourages a modal shift to sustainable forms of transport.
- Numerous policies in the County Development Plan support and reflect Government policy aimed at promoting a modal shift to more sustainable forms of transport. Policies CC3, ST2, Section 2.1.3.1 and Policy ST3 cited.

- Sections 8.2.4.5 and 8.2.3.4(v) of the plan allow for a relaxation of the stipulated parking standards. The proposal complies with same as follows:
 - The site is located in close proximity to Deansgrange neighbourhood centre, Foxrock neighbourhood centre and Cornelscourt district centre. Deansgrange Business Park, Pottery Road Business Park and National Rehab Hospital which are significant employment generators are within walking distance. Sandyford Business Park is 2km to the west.
 - The site is in close proximity to public transport and is highly accessible.
 - The site is in close proximity to an appropriate mix of land uses.
 - The site is 650 metres from Clonkeen Park and accessible from the green infrastructure network.
 - There is ample on street parking availability in the vicinity.
 - Precedent has already been established. Reference made to SHD file ref. ABP 307545

6.2. Planning Authority Response

None

6.3. Observations

Observations have been received from:

1. Darragh O'Sullivan
2. Grange Park and Foxrock Wood Residents Association
3. Oliver Nestor

The issues raised in the submissions can be summarised as follows:

- The entrance/exit for the proposed dwelling would open out onto a public laneway. There would be nowhere to park cars associated with the dwelling other than on the public laneway or outside other houses on the road.

- The lane has been subject to a recent and unresolved legal dispute between the applicants and the planning authority. The proposal is premature until the issue is resolved.
- A wooden gate has been erected in the wall onto the lane without permission.
- The argument in favour of zero parking is inherently flawed as the proposal will not be served by zero cars. The existing house is already served by 3-4 cars.
- The precedent cited refers to a scheme of 1 and 2 bedroom apartments in Dundrum. The said units are not family units and are located within walking distance of the LUAS.
- Haphazard parking occurs in the vicinity. This impedes local traffic and pedestrian linkages. The proposal will compound this situation. The proposal will not achieve any modal shift.
- Proposed vehicular access and turning movements would result in traffic conflict that would endanger pedestrians and cyclists and create a serious traffic hazard caused by cars reversing out of the enclosed laneway.
- The Parking Survey was undertaken in September 2020 during the severe COVID restrictions and does not reflect the normal conditions with commuters using the 46A/75 bus stop parking in the area.
- Permission would establish an undesirable precedent.
- The proposal would adversely impact on the residential amenities of adjoining property. It would have an adverse visual impact on both the laneway and Beech Park Avenue due to its height, massing and scale.
- The proposed development has not been informed by any site, topographical or tree survey.
- No detail is given on the height differential between the application site and the pedestrian link which is nearly 2 metres. The plans and drawings are inaccurate. The impact of the dwelling on the lane has not been addressed. It will be overbearing. Existing vegetation could be lost due to the proximity of the dwelling to the boundary.

- The level of architectural detail is lacking. There are concerns that the existing wooden structure could not be built on and would require demolition and rebuilding thereby negatively impacting on the mature tree.
- No permission exists for the fence erected on the boundary wall to the lane.
- An existing foul sewer drain (150mm) passes across the site from Grange Park. The proposal would be refused on prematurity pending completion of a pre-commencement enquiry with Irish Water.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Zoning Provisions and Suitability of Design
- Access and Parking
- Other Issues

7.1. **Zoning Provisions and Suitability of Design**

The proposal entails the separation of the existing side extension from the main dwelling (No.11) and its extension to provide for an independent dwelling unit. Access is to be via a pedestrian gate off a public laneway which bounds the site east.

The site is within an area zoned A in the current Dun Laoghaire Rathdown Development Plan the objective for which is to protect and/or improve residential amenity. The plan also seeks by way of policy RES4 to improve and conserve the housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities. The proposal for a new dwelling would accord in principle with the said plan provisions.

Whilst reference is made to plan's development management provisions for the subdivision of dwellings as set out in section 8.2.3.4 (ii) I submit that this is not applicable in that whilst the link to the existing extension is to be removed and the said annex extended, what is more appropriately proposed is the subdivision of the

existing house curtilage and provision of an entirely independent dwelling unit within the side/rear garden. Therefore the provisions for such type development as set out in section 8.3.4 (v) are relevant.

Relative to the criteria required to be satisfied in terms of corner/side garden sites (as set out in section 8.3.4 (v)) I note the following:

Size, design, layout, relationship with existing dwelling and immediately adjacent properties.

The proposal is for a 127 sq.m. part single, part two storey dwelling with a contemporary architectural design and limited palette of external finishes comprising timber cladding and aluminium clad timber windows. Whilst respecting the front building line of the parent dwelling (No.11) it avails of the axis provided by the laneway bounding the site to the east. Whilst a departure from the prevailing house design in the area I consider that by reason of the site context, bounded by a public laneway to the east, it is acceptable.

The dwelling is to be lower in height than the parent dwelling with the two storey element to be 5.955 metres in height with the longer, single storey section that runs parallel to the lane 4.35 metres. Observers to the appeal contend that the differential in levels between the lane and the site have not been considered with the site up to 2 metres higher. Notwithstanding, I submit that the dwelling which has a low profile would not present as an overbearing element to the said lane.

Impact on the amenities of neighbouring residents

By reason of the split level design and layout the amenities of No.10 to the east, which is separated from the site by the laneway, would not be adversely impacted by reason of overlooking or loss of privacy. A window opening to the landing is proposed at 1st floor level in which obscure glazing can be required by way of condition should the Board be disposed to a favourable decision.

The 2 storey element of the dwelling is to be setback 10 metres from the boundary with Nos. 15,16 and 17 Foxrock Wood to rear (south-west) which, themselves, are served by rear gardens of 11 metres or greater in length. I submit that no issues of overlooking or loss of privacy would arise.

Development Plan Standards/Accommodation Standards

The dwelling provides for an acceptable standard for prospective occupants. With a floor area of 127 sq.m. it is to provide for 2 no. bedrooms and a study. The latter is comparable in size to the two bedrooms and its use for such purposes in the future is a possibility.

In the subdivision of the overall site the existing dwelling is to retain c.138 sq.m. of private open space with the new dwelling to have 189sq.m., both which exceed the minimum private open space requirements of the development plan.

Conclusion

On the basis of the above I consider that the proposed dwelling is acceptable in design, will provide for an acceptable level of amenity for prospective applicants and will not adversely impact on the amenities of adjoining properties. I shall address access and car parking below.

7.2. Access and Car Parking

The configuration of the overall site is dictated by its frontage onto the turning circle of the cul-de-sac and the laneway along its eastern boundary resulting in a wedge shape widening out from the frontage onto the said turning circle. It is not possible to provide for a separate vehicular access from the said cul-de-sac to serve the new dwelling. As can be extrapolated from the details provided on the plans accompanying the application a pedestrian access, only, is proposed from the laneway. As noted on day of inspection a pedestrian access to the annex is in place. No off-street parking is proposed with parking along the lane delineated on the plans accompanying the application.

The issue arising in terms of rights to access over the laneway including use for car carparking is raised extensively in the objections received by the planning authority during its assessment of the application and in the observations to this appeal. It is also referenced in the Parking Survey Report accompanying the application. The planning authority's reports on file are silent on the matter. The lane is in the charge of the Local Authority. As noted on day of inspection a vehicle was parked on the laneway alongside the existing annex. I submit that the dispute arising is a legal issue over which the Board does not have jurisdiction and is a matter for resolution through the appropriate legal channels.

Having regard to Table 8.2.3 of the development plan 1 no. parking space is required for a 2 no. bed dwelling. The agent for the appellants in the appeal submission considers that the proposal, in not providing for parking, is in accordance with national and local policy guidance encouraging a modal shift to sustainable forms of transport. It is also contended that the site complies with the provisions of sections 8.2.4.5 and 8.2.3.4(v) of the plan which allow for a relaxation of the stipulated parking standards on the basis that the site is within walking distance of retail, services and employments areas, is in close proximity to public transport and that there is ample on street parking availability in the vicinity. The latter view is supported by the Parking Survey Report.

Whilst the location of the site and its proximity to services, amenities and transport is noted and is amenable to pedestrian connectivity this does not automatically infer that the dwelling will be car free.

I would express concerns about allowing for a relaxation in the parking standards for what is a family sized dwelling in such a mature residential area at the end of a cul-de-sac where, arising from the configuration of the turning area, haphazard parking tends to arise. This is compounded at this location by the pedestrian laneway which is used by pedestrians and cyclists. Notwithstanding the availability of on-street parking elsewhere in the area it is instinctive for a motorist to seek a space nearest his/her destination, especially their dwelling.

On balance I concur with the planning authority in its determination and consider that the proposed development without off street parking provision would result in an unacceptable standard of development, would detract from the residential amenities of the area and would set an undesirable precedent. I therefore recommend refusal of permission on this basis

7.3. Other Issues

The issue of the planning status of the fence erected atop the boundary wall onto the laneway is a matter for the planning authority.

The drainage plans accompanying the application state 'provisional sewer diversion agreed with Irish Water'. This is somewhat contradicted by Irish Water's submission to the planning authority seeking further information requiring the applicant to enter a pre-connection enquiry.

Appropriate Assessment – Screening

Having regard to the nature and scale of the proposed development and distance from the nearest European Site it is concluded no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

The site is located within an area zoned A in the current Dun Laoghaire Rathdown Development Plan the objective for which is to protect and/or improve residential amenity. Having regard to the location of the site at the end of a cul-de-sac, immediately adjoining a pedestrian laneway and the lack of off street parking provision contrary to section 8.2.4.5 of the current Dun Laoghaire Rathdown Development Plan it is considered that the proposed development would result in haphazard on-street parking in the vicinity and would adversely impact on the residential amenities of the area. The proposed development, by itself and by the precedent it would set for similar development in the area, would be contrary to the zoning objectives for the area and would, therefore, be contrary to the proper planning and sustainable development of the area

Pauline Fitzpatrick
Senior Planning Inspector

November, 2021