



An
Bord
Pleanála

Inspector's Report ABP 310501 -21.

Development	Change of House Plan from that for which permission was granted under P. A. Reg. Ref. F21A/0176.
Location	House No 3, Rear Nos 132 and 133 Dublin Road, Sutton, Dublin 13.
Planning Authority	Fingal County Council,
P. A. Reg. Ref.	F21A/0176
Applicant	Derek Gaffney
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Colin Doyle and Sabina Louet,
Date of Site Inspection	16 th July, 2021
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.3. Planning Authority Response	8
7.0 Assessment.....	8
8.0 Recommendation.....	9
9.0 Reasons and Considerations.....	10
10.0 Conditions	10

1.0 Site Location and Description

- 1.1. The site is that of a previously permitted development of three houses on lands at the rear, north side of Nos 132 and 133 Dublin Road Sutton, the rear gardens of which were subdivided to form the site for the three-house development. The plot for the dwelling subject of the current application, (House No 3) adjoins the rear garden boundary of the existing two storey house at No 133 Dublin Road. (The appellant property) which has deep front gardens and front curtilage parking with direct access onto the Dublin Road. A dwelling was under construction at No 132 Dublin Road adjacent to the appellant party's property at No 133 Dublin Road at the time of inspection.
- 1.2. The dwelling subject of the current application, House No 3 is on a plot which has a stated area of 1400 square metres is part constructed. It has a stated floor area of 111 square metres and is a smaller, lower height dwelling than House Nos 1 and 2. The roof profile has a central flat section with a centrally positioned roof light over a landing and steep slopes rising to it from the eaves. The eaves height and first floor level are shown on the plans at circa three metres over the ground level with the overall roof height over ground level of at 5.7 metres.
- 1.3. The development is accessed via an existing lane (from Dublin Road to the south) off which there is access to the house under construction at No 132 Dublin Road and which extends northwards, and it eastwards at the rear, northern boundary of the site off which there is access to the three houses each of which have off street parking to the side of dwelling.

2.0 Proposed Development

- 2.1. The current proposal is for changes to the previously permitted proposal under P. A. Reg. Ref. F20A/340 for House No 3. A dormer window on the northern elevation is to be replaced with a window ope, 2.5 metres width and 1.7 metres height. The roof profile is to have an open hipped gable. The permitted dormer feature on the west elevation of the dwelling is to be increased in size to a width of 3.4 metres and a

height of 2.5 metres with a 1.9 metres projection forward of the roof slope, 500 metres below the ridge height.

3.0 **Planning Authority Decision**

3.1. **Decision**

By order dated 17th May, 2021 the planning authority decided to grant permission subject to condition which include adherence to the conditions attached to the prior grant of permission P.A. Ref. Ref. F20A/342. and, with, according to condition No 3, validity up and including the date of expiry of the prior grant of permission under P.A. Ref. Ref. F20A/342.

3.2. **Planning Authority Reports**

3.2.1. The report of the **Planning officer** indicated satisfaction with the proposed development and a recommendation or a grant of permission based on reasoning that the proposed development would not give rise to undue negative impact on existing visual amenities at the location.

3.2.2. The report of the **Transportation Planning Section** indicates no objection to the proposed amendments to the previously permitted development

3.2.3. The report of the **Water Services Department** indicates no objection to the proposed amendments to the previously permitted development

3.3. **Third party Observations.**

3.3.1. An observation was lodged by the Appellant Party in which the issues raised relate to adverse impact on the amenities of their property and to the surrounding area owing to scale, design, proximity and height. A detailed account of the objections is available in the account of the appeal in Section 6.1 below

4.0 **Planning History**

4.1. **P.A. Reg. Ref. F 20A/0342.** Permission was granted, on 9th December 2020 for the three dwellings, two detached two storey house and one detached dormer dwelling (House No 3). This development was under construction at the time of inspection on

the site with access via the lane to the side of No 132 to Dublin Road, on-site parking for six cars private amenity space and boundary treatment. (The current application is for modifications to House No 3.)

- 4.2. The application site has been subject of a prior successful application for two dwellings under P. A. Reg. Ref. F15A/0287 and, on a site to the rear of No 133 Dublin Road, partial demolition of an extension and construction of two detached mews dwellings. These grants of permission were not taken up. There were also two prior applications under P. A. Reg. Refs: F20A/0037, and F20A/0053 which were withdrawn prior to determination of a decision.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Fingal County Development Plan, 2017-2023, according to which the site location is within an area subject to the zoning objective RS: *Provide for residential development and protect and improve residential amenity.*

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was lodged by Sabine Louet and Colin Doyle who reside at No 133 Dublin Road, on their own behalf on 14th June, 2021. Attached are some copies of drawings, photographs and three annexes to the appeal:
- 6.1.2. It is the appellant's case that the proposed development would have serious negative impact on the residential amenities of their property, having regard to the increase in height, the elevation, the proximity of House No 3 to their property an overbearing roof size resulting in a negative outlook from the rear of their property. An agreement had been reached with the applicant and with neighbours' regarding the proposals in the application under P.A. Reg. Ref. F20A/0342. It is contended that the development with no dormer windows subject of the prior grant of permission should not be altered. No dormer windows should be permitted and a

condition should be attached indicating that no first-floor south fenestration can be permitted.

6.1.3. The appeal grounds are outlined in detail below:

- The current proposals are in contradiction with additional information request issued in respect of the prior proposal (P.A. Reg. Ref. F20A/0342 refers.) in which the applicant was requested to consider omitting House No 3. However, if it was to be retained, it was to be reduced in scale and redesigned so that visual impact is reduced and so that it is subordinated to House Nos 1 and 2 within the proposed scheme. It is the appellant party's view that House No 3 should have been omitted.
- House No 3 is 111 square metres in floor area which is just 4% less than the floor areas for House No 1 and House No 2 and is not sufficiently subordinate to them. There is adverse visual impact on the surrounding area particularly with regard to the large dormer.
- It is not possible for the dormer to be 500 mm below the ridge, the finished floor level is 3 metres which adds 2.5 metres to the dormer height which is a total of six metres inclusive of the 500 mm beneath the ridge which is not compliant with a 5.7 metres' height restriction.
- The proposed development is much larger than that advised in the request for additional information on the prior permitted proposal. (P.A. Reg. Ref. F20A/0342 refers.) The first floor increases to 48 square metres from 34 square metres in floor area so there is a significant, 41% increase in floor area along with the increased width estimated at 55% and larger roof. The roof design is not a dormer style dwelling's roof as previously permitted under P.A. Reg. Ref. F20A/0342. There is a major impact on amenities as previously there was no development at the location.
- There is a line on the drawings for the prior grant of permission under P.A. Reg. Ref. F20A/0342 to indicate the position of the first-floor dormers. There is a one metre difference in the position of this line in the current proposal's drawings

- The size of the dormer to the west is excessive in proportion to the roof size especially with the 3.4 metres width and height of 2.5 metres in a roof of 2.7 metres in height.
- In annex 1 there is an account, (including comments) of the background and context including the prior planning history for the application site.
- In annex 2 it is requested that it be clarified as to which body is responsible for enforcement matters with regard to planning remit and Building Regulations.
- In annex 3 there is an account of the objections made in connection with the prior proposal under P. A. Reg. Ref. F20A/342 and the current proposal.

6.2. Applicant Response

6.2.1. A submission was received on 12th July, 2021 from the applicant's agent on 8th July, 2021 according to which the appeal argument is misplaced and without foundation and it is requested that the planning authority decision be upheld. According to the submission: -

- The planning authority's assessment of the proposal was rigorous and the applicant is satisfied with the decision to grant permission and can readily comply with the four conditions attached to the decision. The proposal is consistent with the zoning objective.
- The proposed modifications the prior grant of permission, (which was not appealed) which are to the north elevation involving replacement of a dormer feature with a window are minor in nature. The roof profile will present as an open hipped gable on the front north elevation and amends the side dormer on the western elevation.
- No changes to the separation distance from the appellant's property No 133 Dublin Road, the footprint, the highest point of the roof, rear building line are proposed. No additional windows are proposed for the rear south elevation and there are no first-floor windows in this elevation which faces towards the appellant's property. The changes proposed will not detract from residential amenities of the character of the area.

6.3. Planning Authority Response

- 6.3.1. A submission was received by the Board on 7 July 2021 in which is stated that there are no observations on the appeal grounds but it is requested, if permission is granted, that a condition be included with a requirement for a section 48 development contribution.

7.0 Assessment

- 7.1. The rear gardens of the appellant party's property and the adjoining property at Nos 133 and 132 Dublin Road were severed to provide for the formation of the rear, infill site on which three dwellings under construction have been permitted. House No 3 is located directly to the rear of No 133 Dublin Road the remaining rear garden area of which is relatively shallow in depth and separated from the application site by a timber fence.
- 7.2. The proposed changes to the development subject of the prior grant of permission are not distinguished on the current application drawings and as such there is some lack of clarity. The drawings lodged in the further information submission with the planning authority on 6th October, 2020 subject of the prior grant of permission under P. A. Reg. Ref. F20A/0342, available on the local authority's website have been reviewed.
- 7.3. The footprint finished floor level (0.45 M + 4.0m AOD Malin Head) and separation distance – from boundary and rear building line of appellant party's house at No 133 Dublin Road are unchanged. The roof profile is altered providing a steeper slopes and a wider top flat section, and it accommodates a larger internal floor area (increased from 34 square metres to 47 square metres) at first floor level for bedrooms and a bathroom. It is considered that the changes to the roof profile, which result in an increased massing impact at first floor level, but with no change in building height, would not result in any significant change a regards visual or overbearing impact in terms of the outlook from the dwelling or from the rear garden of the appellant' party's property at No 133 Dublin Road.

- 7.4. It can be confirmed that there is no fenestration for the first-floor bedroom No 2 in the roof slope facing towards the appellant property. (Two rooflights are shown facing west for this room and one rooflight facing east for the bathroom.) The west side first floor level window, over the landing/staircase is altered in width and depth to correspond to the modified roof profile proposed and use of obscure glazing is indicated. As such there is no potential for overlooking of the appellant property from the first floor of the dwelling. None of these changes would have implications with regard to potential for impact on the amenities of the appellant party's property.
- 7.5. With regard to the request in the appeal for clarification regarding enforcement it can be confirmed that the planning authority (Fingal County Council) has the responsibility for the implementation of the legislative provisions within the Planning and Development Act, 2000 as amended.
- 7.6. **Environmental Impact Assessment Screening.**
- 7.6.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 7.7. **Appropriate Assessment.**
- 7.7.1. Having regard to the scale and nature of the proposed development and to the serviced suburban location, no Appropriate Assessment issues arise. 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

- 8.1. In view of the foregoing, it is recommended that the planning authority decision be upheld and permission granted based on the reasons and considerations and conditions which follow.

9.0 Reasons and Considerations

Having regard to the planning history and to the design and minor nature and extent of the proposed changes to House No 3 in the development permitted under P. A. Reg. Ref. F020A/0342, it is considered that subject to compliance with the conditions below the proposed development would not seriously injure visual amenities of the area or the residential amenities of the adjoining property to the north at No 133 Dublin Road, and would be in accordance with the proper planning and 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. The developer shall comply with the conditions attached to the grant of permission under P. A. Reg. Ref. F20A/0342 except as required for the changes authorised in this grant of permission, the duration of which shall cease on 9th December, 2025.

Reason: In the interest of clarity.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may

facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Jane Dennehy

Senior Planning Inspector

17th July, 2021.