



An
Bord
Pleanála

Inspector's Report

ABP-310646-21

Development

Permission is sought for the construction of a detached two storey house on a sub-divided site to the side of the existing house, the extended dishing of the pavement to access a new parking area to the proposed house, and to move the parking area for the existing house, a new pedestrian access door to the rear garden and associated site works.

Location

1 Highland Grove, Cabinteely, Dublin,
D18 R9W2

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D21A/0297

Applicant(s)

Emelina & Paul Ellis

Type of Application

Permission

Planning Authority Decision

Grant with Conditions

Type of Appeal

Third Party

Appellant(s)

John Toomey

Observer(s)

None

Date of Site Inspection

04/08/2021

Inspector

Mary Crowley

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations	8
5.3. EIA Screening	9
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Applicant Response	10
6.3. Planning Authority Response	11
6.4. Observations	11
6.5. Further Responses.....	11
7.0 Assessment.....	11
7.2. Principle	11
7.3. Corner / Side Garden Site	12
7.4. Traffic Impact	13
7.5. Appropriate Assessment	13

7.6. Other Issues..... 13

8.0 Recommendation..... 14

9.0 Reasons and Considerations..... 14

10.0 Conditions 14

1.0 Site Location and Description

1.1. The appeal site has a stated area of 0.0172 ha and comprises the side garden of 1 Highland Grove, Cabinteely, County Dublin. The site slopes down to the east and north following the topography of the area. At present the area is open to the public view and there are two decorative shrubs on it. The rear garden wall of 1 Highland Grove runs along the inside of the space and the roadside boundary runs undefined along the footpath. Cabinteely is a residential suburb west of the N11 and the immediate area of the application site is characterised by two-storey semidetached houses with front and rear gardens. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Permission is sought for the following:

- construction of a detached two storey house (84sqm) on a sub-divided site to the side of the existing house (122 sqm)
- the extended dishing of the pavement to access a new parking area to the proposed house and to move the parking area for the existing house
- a new pedestrian access door to the rear garden and associated site works.

2.2. The application was accompanied by a cover letter setting out the following that were taken into account in the re-design:

- Reduction in scale, mass and blank elevation to Highland Avenue
- Insufficient off-street parking (2 bed requires 1 space)
- House set back 800mm from footpath boundary
- Separation distances at FF is over 24mm and 8.9mm distance on GF to rear boundary matching approved development at No 18 Highland View and No 1 Highland Grove
- New house has 50sqm of private open space. revised boundary of existing housed has 66sqm private open space

- Accommodation standards are in line with Building Regulations and DLR Development Standards
- Building lines followed where appropriate
- House to match all finishes to neighbour
- This more compact detached proposal will closely relate to adjacent dwellings
- Use of first floor / apex windows on gable close to boundaries overlooking roads and open spaces
- Provision of adequate sightlines for access and egress

3.0 Planning Authority Decision

3.1. Decision

3.1.1. DLRCC issued a notification of decision to grant permission subject to 11 no generally standard conditions summarised as follows:

1.	Compliance with plans and particulars submitted
2.	Tress on Highland Avenue shall be protected
3.	Dwelling shall not be subdivided
4.	External materials
5.	Surface water
6.	Vehicular entrance shall be maximum 3.5m in width
7.	Development Contribution
8.	Development Contribution
9.	Development Contribution
10.	Payment of Contribution
11.	Luas Line B1 Development Contribution

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** having considered the proposed development was satisfied that the massing, scale and form of the proposed development would not adversely impact on the residential amenity of adjacent properties by reason of overshadowing, overlooking or overbearing appearance or detract from the character of the surrounding area and would be in accordance with the Development Plan. The Case Planner recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by DLRCC reflects this recommendation.

3.2.2. Other Technical Reports

- **Parks Department** – Recommended refusal having regard to loss of healthy tree population, quality of proposed layout and elevations and impact on landscape character of the area.
- **Drainage** – No objection subject to conditions relating to surface water and SuDS.
- **Transportation Planning** – No stated objection subject to conditions relating to width of proposed entrance, dishing of the footpath, SuDS and boundary walls.
- **Environmental Health service** – No comment

3.3. Prescribed Bodies

3.3.1. Irish Water – No objection

3.4. Third Party Observations

3.4.1. There are 5 no observations recorded on the appeal file from (1) Robert Murphy, (2) Katie & Stephen Carroll, (3) Deirdre de Burca, (4) John Toomey, (5) The Park Residents, (6) Alice O'Loughlin,

3.4.2. The issues raised relate to impact on character, overbearing and intrusive development, overdevelopment, undesired precedent, development does not cater for people with disabilities, inadequate sanitary facilities, inadequate rear garden space, impact on property valuation, traffic impact, detrimental to residential amenity, overlooking, overshadowing, ecology impacts and contravenes development plan.

4.0 Planning History

4.1. There was a previous appeal on this site that may be summarised as follows:

- **307685** – DLRCC refused permission for the construction of a detached three storey house on a sub-divided site to the side of the existing house at No 1 Highland Grove, Cabinteely for 2 no reasons relating to (1) excessive scale and visual impact and (2) insufficient provision of off street carparking. Following a first party appeal the Board refused permission for the following reasons:

The proposed development is in an area zoned A to protect and/or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022. The application site comprises a narrow side garden which functions in part as public open space. The proposed development by reason of its excessive scale, mass and position on the boundary of the public footpath would comprise overdevelopment of a restricted site and would be visually incongruous and out of character with the pattern of development in the area. The proposed development would, therefore, seriously injure the visual and residential amenity of the area and would contravene the residential zoning objective set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development is therefore not in accordance with the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development is located in an area zoned A where the objective is “to protect and or improve residential amenity”. Section 8.2.3.4 (v) of the County Development Plan states in relation to new houses in corner/side garden sites.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature of the development comprising a single house located in a built up area zoned for residential development where public water mains and sewerage are available the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third-party appeal has been prepared and submitted by John Toomey on behalf of the listed residents of Highland Grove, Highland Avenue and highland Lawn. The issues raised may be summarised as follows:
- The development by reason of its excessive scale, mass and position on the boundary of a public footpath, still represents overdevelopment of a restricted site and it would be out of character with a pattern of development in the immediate area
 - This is a narrow steep grassy bank that has since the beginning been open public space where children have been free to play.
 - This development is completely incongruous with the surrounding houses as confirmed by the previous Inspector's report. It would have the appearance of being squeezed into a site that is simply too restricted for a detached dwelling.
 - Attention is also drawn to the report of the DLR Parks Department which emphatically recommends refusal stating that the "sense of place" will be destroyed.
 - Concern is also raised with regard to road safety. The corner from Highland Avenue to Highland Grove is already challenging for drivers, visibility being an issue due to the gradient and with so many children playing on what is a quiet cul de sac. Queried if this has been taken into account when this proposed development will result in reduced visibility and more congestion due to the inevitable increase in roadside parking.

- Although the size of the development has been reduced from the previous planning application the size of the site has not. It is not big enough to accommodate a detached dwelling. The impact will be identical.
- The appeal was accompanied by the observation submitted to DLRCC the contents of which are noted.

6.2. Applicant Response

6.2.1. The first party submitted the following comments as summarised in response to the third-party appeal:

- The site is the applicants side garden and is private property. This site has no public amenity value. The title deed and folio both clearly show that the side garden is part of the lands of No 1 Highland Grove. The natural planting is not within the proposed site and will remain untouched.
- The residential amenity will be intact, given the house has been designed to match the exact character, finishes and pattern of development.
- The proposed development follows existing building lines to the front rear and side and is lower than No 1 Highland Grove. The design of the house, internal areas, room sizes, storage areas, floor to ceiling height, private open space etc have all been measured and set against Building Regulations and the recommendations of the 2007 "Quality Housing for Sustainable Communities Best Practise Guidelines Table 5.1.
- Distances between directly opposing windows at first floor level would be well in excess of 22m (11m to the rear boundary). The proposed rear garden would have a depth of c9.7m. a rear garden of 52sqm is proposed with 66sqm kept for the existing house. These parameters comply with the requirements of the Development Plan. In terms of open public space it is noted that Cabinteely Park is 250m away from the area.
- The sight lines detailed on the application drawings are in full compliance with the Design Manual for Urban Roads and Streets (2013). Submitted that it is the responsibility of the general public to drive a car safely around a corner, down a hill and be mindful of children playing.
- Precedent is provided for side garden developments in the area

6.3. **Planning Authority Response**

- 6.3.1. The Board is referred to the Planners Report and stated that there is no change of attitude to the proposed development.

6.4. **Observations**

- 6.4.1. None

6.5. **Further Responses**

- 6.5.1. None

7.0 **Assessment**

- 7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Corner / Side Garden Site
- Traffic Impact
- Appropriate Assessment
- Other Issues

7.2. **Principle**

- 7.2.1. The appeal site is wholly contained within an area Zoned A where the objective is “to protect and or improve residential amenity” and where residential development is the primary permitted form of development. Accordingly, I am satisfied that that the principle of the development proposed is acceptable subject to the acceptance or otherwise of site specifics / other policies.

7.3. Corner / Side Garden Site

7.3.1. Concern is raised in the appeal that the development by reason of its excessive scale, mass and position on the boundary of a public footpath, represents overdevelopment of a restricted site that would be out of character with a pattern of development in the immediate area

7.3.2. I refer to Section 8.2.3.4 Part (v) Corner/Side Garden Sites of the Development Plan where it states that the sub-division of an existing house curtilage on a corner site will have regard to a number of parameters. I have considered these parameters and I am satisfied that:

- The proposal in terms of size, elevational treatment, design, layout and relationship with the parent existing dwelling and immediately adjacent properties has been well considered. I am satisfied that the proposed scheme is adequately subservient to the parent building and will not overwhelm or detract from same or the wider streetscape.
- Having regard to the design and location of the proposed dwelling I am satisfied that it will not impact significantly on the amenities of neighbouring residents by reasons of overlooking, overshadowing or loss of daylight.
- I am satisfied that the proposed dwelling meets the minimum accommodation standards for occupiers and the Development Plan standards for both the existing and proposed dwelling in terms of car parking and private open space.
- The proposed building line and set back is both appropriate and acceptable at this corner site.
- I do not consider side/gable and rear access/maintenance space to be an issue in this case.
- This is a compact site and I am satisfied that the design response allows the original house to be viewed clearly while respecting the principle elevational features of same. I am further satisfied that the scheme provides a level of visual harmony by reason of the proposed external finishes and colours.
- Given the restricted nature of the site, a not uncommon characteristic of corner sites, the set back from the side site boundary with Highland Avenue is acceptable.

- The use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance is not relevant in this case.

7.3.3. As documented this is a compact serviced urban site. The proposed dwelling reflects the character of the area and is compatible in relation to design and scale with adjoining dwellings in terms of proportions, heights and materials and represents an appropriate and reasonably sympathetic design response to the sites context. The private open space to serve the new dwelling is well considered without significant diminution of the amenity value of the principle dwelling. Further, the scheme will not result in any significant over shadowing or loss of natural light of adjoining properties.

7.3.4. Overall, I consider the sub-division of the existing house to provide an additional dwelling in this existing built up area to be acceptable. I am satisfied that the proposal complies with the parameters set out in Section 8.2.3.4 Part (v) Corner/Side Garden Sites of the Development Plan and that to permit same would not materially contravene the residential zoning objective for the site.

7.4. **Traffic Impact**

7.4.1. Given the location of the appeal site within an established residential neighbourhood fronting onto a cul de sac I am satisfied that the proposed development provides for a safe means of access to and from the site which will not result in the creation of a traffic hazard and that the proposed development would function satisfactorily from a traffic safety point of view.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development and its distance to 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

7.6. **Other Issues**

7.6.1. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution Scheme under Section 48 of the Planning and

Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000

8.0 Recommendation

- 8.1. It is recommended that permission be **granted** subject to the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the site's location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, 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 of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. 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. a) The trees existing on the public road along the sites east boundary with Highland Avenue shall be protected against damage throughout the period of construction.
- b) The width of the proposed vehicular entrance shall be a maximum of 3.5m
- c) The entire dwelling shall be used as a single dwelling unit and shall not be subdivided or used as two or more separate habitable units.

Reason: In the interest of proper planning and sustainable development

3. Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of adjoining property in the vicinity

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

8. 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 the 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

Mary Crowley

Senior Planning Inspector

10th September 2021