



An
Bord
Pleanála

Inspector's Report ABP-311563-21

Development	The demolition of existing garden boiler house/shed and construction of ground floor extension together with all associated site works and services.
Location	23 Forest Dale, Rivervalley, Swords, Co Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F21B/0269.
Applicant(s)	Simon & Yvonne Ward.
Type of Application	Planning Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Paul Donohoe.
Observer(s)	None.
Date of Site Inspection	28 th day of December, 2021.
Inspector	Patricia-Marie Young.

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
3.3. Third Party Observations	4
4.0 Recent and Relevant Planning History	4
5.0 Policy & Context	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	6
5.3. EIA Screening	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	7
6.3. Planning Authority Response.....	7
7.0 Assessment.....	7
8.0 Recommendation.....	10

1.0 Site Location and Description

- 1.1. No. 23 Forest Dale is located in the Dublin city suburb of Rivervalley. It contains a dormer style semi-detached bungalow with a garden to the front and rear that sits on a site with a stated 0.02ha area. There are a number of outbuildings in the rear private space amenity. The site itself is located on the northern side of Forest Dale Road c48m to the east of its T-junction with Rathingle Road and c2km to the south west of Main Street, Swords, Co. Dublin.
- 1.2. The rear boundary of the site backs onto the Rivervalley Shopping Mall and its front garden accommodates off-street car parking. The rear garden area accommodates a modest single storey boiler house/shed structure.
- 1.3. The immediate streetscape context is characterised by mature residential development.

2.0 Proposed Development

- 2.1. By way of this application planning permission is sought for:
 - Demolition of existing garden boiler house/shed and construction of ground floor extension at rear.
 - Alterations at first floor level to provide bedrooms in new enlarged roof space with 2 no. escape windows and dormer at rear (north east elevation).
 - Relocation of existing roof-light at rear (north east elevation).
 - 3 no. additional escape windows to side with obscure glazing (south east elevation).
 - Alterations to existing house.
 - All associated site works and services.
- 2.2. According to the planning application form the existing dwelling has a given gross floor area of 80.5m²; the gross floor space of demolition works is given as 1.6m²; and the gross floor space of the proposed works is given as 42.4m².

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 8th day of September, 2021, the Planning Authority issued a notification to grant permission subject to 8 no. conditions. These conditions include:

Condition No. 2: Requires compliance with Building Regulations.

Condition No. 3: Restricts dwellings use to a single unit.

Condition No. 4: Deals with external finishes and treatments.

Condition No. 8: Requires payment of a Section 48 contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report is the basis for the Planning Authority's decision.

3.2.2. Other Technical Reports

None.

3.2.3. Prescribed Bodies

None.

3.3. Third Party Observations

- 3.3.1. The Planning Authority received a submission from the Third-Party Appellant in this appeal case raising the same substantive planning issues as contained in their appeal submission.

4.0 Recent and Relevant Planning History

4.1. Site

- 4.1.1. None.

4.2. In the Vicinity

- 4.2.1. There are no Board decisions recent and relevant in the setting of the site. The Planning Authority's Planning Officer's report on file sets out planning history relating to similar developments within the vicinity. This report is attached to file. In addition to this there is also a planning history pouch attached for the following planning applications: P.A. Ref. No.s F06B/0602; F17B/0042; F10B/1084; F10B/0237; F08B/0404; F04B/0031; F98B/0320 and F99B/0744 which I have noted.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The site lies within an area zoned 'RS' which has an aim to: *"provide for residential development and protect and improve residential amenity"*.
- 5.1.2. Section 12.4 of the Development Plan sets out the Design Criteria for Residential Development. It indicates that residential extensions will be considered favourably where they do not have an impact on adjoining properties or on the nature of the surrounding area. It further indicates that first floor rear extensions will be considered on their merits and that the following factors will be considered: overshadowing, overbearing, and overlooking, along with proximity, height, and length along mutual boundaries; remaining rear private open space, and its usability; and requires external finishes and design to generally match that of the existing dwelling.
- 5.1.3. Chapter 12 of the Development Plan states that: *"dormer extensions to roofs will be considered with regard to impacts on existing character and form, and the privacy of adjacent properties. The design, dimensions, and bulk of any roof proposal relative to the overall size of the dwelling and gardens will be the overriding considerations. Dormer extensions (whether for functional roof space or light access) shall generally not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house, but in all cases no dormer extension shall be higher than the existing ridge height of the house. The proposed quality of materials/finishes for dormers will be considered carefully as this can greatly improve*

their appearance. The level and type of glazing within a dormer structure should have regard to existing window treatments and fenestration of the dwelling.”

- 5.1.4. Section 12.4 of the Development Plan sets out the Design Criteria for Residential Development. It indicates that residential extensions will be considered favourably where they do not have an impact on adjoining properties or on the nature of the surrounding area. In relation to first floor rear extensions, it sets out that these will be considered on their merits. The following factors will be considered: overshadowing, overbearing, and overlooking, along with proximity, height, and length along mutual boundaries. In relation to ground floor rear extensions will be considered in terms of their length, height, proximity to mutual boundaries and remaining usable rear private open space.
- 5.1.5. Objective DMS41 is relevant. It states: *“dormer extensions to roofs will only be considered where there is no negative impact on the existing character and form, and the privacy of adjacent properties. Dormer extensions shall not form a dominant part of a roof. Consideration may be given to dormer extensions proposed up to the ridge level of a house and shall not be higher than the existing ridge height of the house.”*
- 5.1.6. Objective DMS44 is relevant. It states that the Planning Authority shall seek to *“protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.”*

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, scale, and scope of the proposed development within the mature and built-up residential setting of the Dublin city suburb of Rivervalley, the nature of the receiving environment, the serviced nature of the site and its surroundings, I consider 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

6.1.1. The grounds of appeal can be summarised as follows:

- There are no rear gardens overlooked on this side of the road.
- Any 2-storey rear extensions that have been built contain sky lights only. The two dormer windows would result in overlooking of the appellants rear garden and the rear of their house.
- The proposed development would diminish the appellants residential amenities by way of overshadowing. With concern raised that the extension would severely block light to their kitchen by way of its height.

6.2. Applicant Response

6.2.1. None.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response which is dated the 27th day of October, 2021, considers that the appellants concerns have been considered by them in their Planning Officer's report and that the proposed development is acceptable subject to conditions. Should the Board be minded to grant permission they seek that the Board include Condition No. 8 of their decision notification.

7.0 Assessment

7.1. The proposed development essentially relates to alterations and additions to an existing dwelling house. It is a type of development that is deemed to be generally acceptable on 'RS' zoned land under the Development Plan which has a land use objective for such land to provide for residential development, to protect and improve residential amenity, subject to safeguards.

7.2. In this regard the main issues in this appeal case are those raised in the grounds of appeal and by the Planning Authority in their response to the grounds of appeal. In

brief they relate to the residential amenity impact of the proposed development on their adjoining property by way of overlooking and overshadowing.

- 7.3. I am satisfied that no other substantive issues arise; notwithstanding, the matter of 'Appropriate Assessment' requires consideration. I propose to do so at the end of my assessment below.
- 7.4. In the context of this appeal case, I consider that the appellants concerns are reasonable given that proposed developments of this nature and scale are set out under Section 12.4 of the Development Plan to be only favourably considered where they do not result in any adverse impact on residential of properties in their vicinity. In this regard it indicates that regard will be had on overshadowing and overlooking as part of their considerations for such proposals. With these being the primary concerns of the appellants in this case in relation to the proposed development sought under this application. Together with the fact that the appellants property forms the other dwelling in the matching pair of semi-detached properties it forms part of, i.e., No. 25, with this property adjoining the subject property on its western side.
- 7.5. On the matter of overlooking I note that there is an absence of any new windows at first floor level that face directly onto an adjoining property. With the rear of this property facing northwards onto Rivervalley Shopping Mall which lies immediately beyond its rear boundary and that of the properties bounding and neighbouring it to the west and east. Views that would arise from the proposed rear dormer windows would give rise to oblique views of the neighbouring properties in its vicinity with a level of overlooking generally to be expected in such suburban and urban contexts.
- 7.6. In addition, the proposed modest in height and width new window opening proposed on the modified side gable of the dwelling is indicated as being glazed in obscure glass. Further, its design as well as positioning is such that if opened it is unlikely to result in any adverse overlooking on the property to the east. Should the Board be minded to grant permission the Board could as a precaution include a condition requiring that this window be provided as indicated in the submitted drawings as well as glazed permanently with obscure glass.
- 7.7. In terms of overshadowing, I also consider that a level of overshadowing is also to be expected in such an urban context and that this proposal seeks to provide a modest in overall dimensions part single and part dormer extension in order to improve the

habitable space of what is a modest in size 80.5m² dwelling house. This proposal would give rise to an additional 42.4m² of additional floor area and with the main first floor level dormer structure having a maximum height of 5.5m with the overall built form of the dwelling being modestly expanded to the rear of its ridge height in order to accommodate the part ground and part single storey extension.

7.8. The design solution of the proposed part ground and part dormer extension sought under this application could not in my view be considered as one that would give rise to excessive impacts on the appellants property or indeed the neighbouring property to the east by way of overshadowing arising from the first-floor level element which overall has a modest in height, volume, and massing.

7.9. Moreover, I do not consider the design solution is one that is unacceptable in a context where the character of these semi-detached pairs on the northern side of Forest Dale is its dormer architectural style and built form. The design is a traditional response that subject to the use of a harmonising palette of external building materials would be respectful of the this largely unchanged homogenous group of semi-detached pairs. In addition, views from the public domain of the proposed alterations and additions would be localised due to the limited lateral separation distance between these pairs.

7.10. I therefore concur with the Planning Authority in this case that subject to conditions that the proposed development would be consistent with Development Plan, including the guidance and considerations its sets out for rear first floor level extensions and dormer insertion and it would not give rise to serious injury of the residential amenities of the area.

7.11. Other Matters Arising

7.11.1. Oversailing/Encroachment

7.11.2. It would appear from the documentation provided that the proposed extension may oversail/encroach onto what may be a shared boundary that separates the rear garden areas of the subject property and the appellants. If this is the case, there is no letter of consent from the appellant for this to occur should permission be granted. I therefore recommend the Board should they be minded to grant permission that an advisory note which sets out Section 34(13) of the Planning and Development Act, 2000, as amended, is attached. I note that this Section of the said Act states that “a

person shall not be entitled solely by reason of a permission or approval under this section to carry out a development". The Board may consider this to be a **new issue**.

7.12. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, namely an urban and fully serviced location, 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**

- 8.1. I recommend that permission be **granted**.
- 8.2. The Advisory Note recommended relates to a new issue.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the area and the pattern of development there, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity by reason of overshadowing, diminishment of daylight, visual overbearance or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 first-floor level side elevation window shall be permanently fitted with obscure glazing.

Reason: In the interest of privacy and visual amenity.

3. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let, or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

4. The external finishes of the proposed extension shall match those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, protection of the public roads and public footpaths, and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

6. Site development and building works shall be carried out only between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 07.00 to 13.00 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 property in the vicinity.

7. 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.

8.
 - a) All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant's/developers own expense.
 - b) The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Fingal County Council, or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.

Reason: To protect the amenities of the area.

9. 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.

Advisory Note: Section 34(13) of the Planning and Development Act, 2000 as amended, indicates that “*a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development*”.

Patricia-Marie Young
Planning Inspector

17th day of January, 2022.