



An
Bord
Pleanála

Inspector's Report

ABP-312572-22

Development

Permission is sought for development for construction of a 2-storey detached single family dwelling house of 183 sq. metre area, with access via pedestrian and vehicular gates on Pakenham Rd.

Location

Egremont, The Hill, Monkstown, Co. Dublin, A94E7N1

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/0964

Applicant(s)

Mairead & Mark Laher

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Concerned Residents of Pakenham Road

Observer(s)

None

Date of Site Inspection

12/03/2022

Inspector

Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located in the grounds of Egremont House, a two-storey over basement semi-detached dwelling on The Hill, Monkstown, Co. Dublin. The site currently forms the rear garden of the dwelling, with a northern boundary onto Pakenham Road. This boundary wall includes a pedestrian and vehicular access.
- 1.1.2. The site to the south-west has been developed into mews housing.

2.0 Proposed Development

- 2.1.1. On the 3rd November 2021, planning permission was sought for the construction of a two-storey detached dwelling of 183sq.m. with access via Pakenham Road, all on a site of 0.0236ha.
- 2.1.2. The application was accompanied by a planning report which states that the subject application addresses the reason the previous application (D21A/0260 refers) was refused.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 21st December 2021, the Planning Authority issued a notification of their intention to GRANT permission subject to 12 no. standard conditions.

3.2. Planning Authority Reports

- 3.2.1. **Drainage Planning:** No objection.
- 3.2.2. **Conservation Officer:** Not a protected structure but within the Monkstown ACA. Some concerns over the treatment proposed, with a recessed entrance and a splayed diagonal wall to provide sight lines. Previous vehicular entrance had less of an impact on the stone boundary wall.
- 3.2.3. **Transportation Planning:** No objection such to two conditions.
- 3.2.4. **Planning Report:** Proposed development is acceptable in principle. Proposed vehicular entrance is acceptable despite removing 6.5m of the boundary wall. Notes the concurrent application in the adjoining site at Mervyn (D21A/0964). No injury to residential amenity would arise. Recommendation to grant permission subject to conditions.

3.3. Observations

- 3.3.1. One objection to the proposed development. Issues raised are similar to those raised in the third-party appeal.

4.0 Planning History

- 4.1.1. Planning Authority reg. ref. **D21A/0260**: Planning permission was REFUSED for the construction of a two-storey dwelling of 180sq.m. for the following reason:

- 1 The proposed development, as amended by Further Information received on the 18th June 2021, would, due to a lack of adequate visibility between vehicles entering/exiting the proposed development and users of Pakenham Road, endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. The proposed development would therefore be contrary to Section 8.2.4.9 Vehicular Entrances and Hardstanding Areas (i) General Specifications, of the Dun Laoghaire- Rathdown County Development Plan 2016-2022, and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Architectural Heritage Protection – Guidelines for Planning Authorities

- 5.1.1. This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principal of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).
- 5.1.2. With regard to **curtilage**, section 13.3.1 of the guidelines state that features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure. The designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building. Where proposals are made for alterations to a designed landscape, ancillary buildings, structures or features within the curtilage or attendant grounds of a protected structure, a site inspection should

be carried out by the planning authority in order properly to understand the potential effects of the proposed development. **Section 13.3.2** states that when assessing the contribution of structures or features within the curtilage or attendant grounds to the character of a protected structure, and when considering any proposals to alter such features, certain criteria must be considered.

5.2. **Dun Laoghaire Rathdown County Development Plan 2016-2022.**

5.2.1. The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned objective A – to protect and/or improve residential amenity.

Relevant policies and objectives include:

5.2.2. **Section 8.2.3.4 (vii) Infill:** “New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”

5.2.3. **Section 2.1.3.4 Existing Housing Stock Densification:** “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. In older residential suburbs, infill will be encouraged while still protecting the character of these areas.”

5.2.4. **Policy RES 3:** It is Council policy to promote higher residential densities provided that proposals 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.

5.2.5. **Section 8.2.3.2** of the Plan sets out quantitative standards for residential development.

5.2.6. **Section 8.2.8.4** sets out standards for **Private Open Space**. For 4 bed units a minimum of 75 sq. metres is required. It is noted that in instances where an innovative design response is provided on site, a relaxation in the quantum of private open space may be considered on a case-by case basis.

- 5.2.7. **Section 8.2.8.6** addresses **Trees and Hedgerows** and states that Arboricultural Assessments carried out by an independent, qualified arborist shall be submitted as part of planning applications for sites that contain trees or other significant vegetation. The assessment shall contain a tree survey, implications assessment and method statement.
- 5.2.8. **Policy AR12: Architectural Conservation Areas** It is Council policy to: i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA). ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area. iii. Seek a high quality, sensitive design for any new development(s) that are complimentary and/ or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design. iv. Ensure street furniture is kept to a minimum, is of good design and any redundant street furniture removed. v. Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

5.3. **Natural Heritage Designations**

- 5.3.1. The South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024) are 0.2km to the north of the subject site.

5.4. **EIA Screening**

- 5.4.1. Having regard to nature and scale of the proposed development and the urban location of the site 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. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted by an agent for the Concerned Residents of

Pakenham Road (2,3 and 4 Pakenham Villas). The grounds of the appeal can be summarised as follows:

Inadequate Sightlines

- Pakenham Road is busy. The wide junctions at either end allow traffic to pass quickly. The section of the road at the subject site is narrow and has a slight bend. There is insufficient room for two cars to pass.
- The appellants live across the road from the site and experience great difficulty existing their properties, despite have wide visibility due to the low boundary walls with railings.
- There have been a number of accidents on the road, including collisions and damage to cars.
- With the 50kph speed limit, sightlines of 70m are required. The previous application with sight lines of 6m and 5.1m was refused on public safety grounds.
- The subject application with a recessed splay provides greater visibility but not enough to counter the previous reason for refusal.
- The applicants engineer stated that visibility was not an issue but did not support this with evidence. This and the appellants objection were not addressed in the planning report.
- The decision of the Planning Authority is not consistent with their request for FI on visibility and sight lines at the adjoining site (D21A/0989).
- The single car parking space is not large enough to allow turning, meaning the car will reverse onto a public road. Other developments have been required to demonstrate room to reverse.
- The proposed development represents a traffic hazard and should be refused permission for being contrary to section 8.2.4.8 of the development plan.

Historic Stone Wall

- The subject site is located in the Monkstown ACA.
- The proposed development involves the removal of 55% of the old stone boundary wall.

- The wall contributes significantly to the setting and character of the ACA. The removal of so much wall will result in an adverse impact.
- The proposed design is too far removed from the character of the area.

ACA

- Chapter 10 of the Monkstown ACA states that new builds must respect the integrity of the urban grain.
- There is an established building line on the north-western side of Pakenham Road.
- The south-eastern side is more haphazard, with a range of building styles.
- The proposed development should reflect the 1950's development to the north-east: purpose built semi-detached dwellings with off-street parking, turning area and private open space.
- The proposed development is 1.7m back from the road which results in a stark appearance from the appellants homes.
- The proposed development is out of keeping with the pattern of development in the area.

Parking

- The proposed development fails to meet the development plan requirement of 3 no. car parking spaces.
- This will lead to increased parking pressure on Pakenham Road and hazardous parking.

Incoherent Approach

- A collaboration between the subject and adjoining site was not undertaken, contrary to the requirement of the development plan for backland developments.
- This is a lost opportunity to protect public safety.

Mature Trees and Vegetation

- The proposed development will result in a loss of mature trees and vegetation, contrary to policy LHB19 and sections 4.1.3.1 and 8.2.8.6 of the development plan.

- The affected trees contribute to the character and setting of the Conservation Area.
- The landscape protection objective of the ACA is to reinforce the existing character.

Inappropriateness of Independent Dwellings

- The mews development to the south-west (PL06D.210022) has a condition restricting the use to that ancillary to the main dwelling.
- This cannot be held to be a precedent for the proposed development, therefore.

Backland Development Policies

- The proposed development is backland development, contrary to the applicants submission.
- The proposed development should be subject to section 8.2.34(iv) of the development plan.
- This section requires development to be single storey generally, to have an 11m back garden for two storey dwellings.
- The proposed development will overlook the dwellings on Pakenham Villas with just 18m between directly opposing first floor windows. This injury to residential amenity in the form of overlooking and loss of privacy warrants a refusal of permission.
- The average garden depth of the proposed dwelling is 5m. The topography of the site is such that the useability of the space is questioned.
- The proposed dwelling may cause overshadowing of the rear gardens of Mervyn and Egremont.
- Access to natural light is more important than ever.
- The proposed development fails to meet the development plan standards for backland development.
- The Board is requested to refuse permission.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority consider that the grounds of the appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

6.3. Applicant Response to Third Party Appeal

- The proposed development is conscious of the Monkstown ACA. The applicants have no desire to diminish or devalue the area.
- The proposed development is in keeping with the ACA and good conservation practice in that it is clearly distinguished from old / historic buildings.
- There is no coherent building line, architectural style or building type. The diversity of building form collectively create the rich character of the ACA.
- It is entirely appropriate that the proposed development is expressed in a modern idiom. The proposed development is neither jarring nor stark, it is modest and simple.
- The applicants are not aware of an increase in road traffic accidents and no evidence to support such a claim has been presented. Reversing movements out of a driveway are inadvisable.
- The proposed vehicular access complies with section 8.2.4.9 of the development plan.
- The proposed dwelling is in close proximity to a number of public transport routes and does not require extra car parking.
- There are double yellow lines outside the site that prohibit on-street car parking.
- All rubble and stone from the removed wall will be repurposed on site. The wall is not original, having been demolished and re-built in August 2008.
(Correspondence attached).
- The sycamore tree to be removed is damaged and will be removed regardless of the proposed development. the walnut tree encroaches on the drainage run and damages the drains.

- The proposed development is not backland as it will be accessed from Pakenham Road with the existing access to Egremont unaltered.
- Relative to Egremont, the proposed dwelling will be single storey due to the topography of the site.
- No 1st floor habitable rooms face the rear so no overlooking will arise. The proposed landing window has an external screen and the closet window faces east.
- The design approach allows a maximum benefit to the new house with the least encroachment on Egremont.
- The proposed development with a plot ratio of 0.77:1 and a site coverage of 52% is not over development.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Traffic, Parking and Access
- Residential Amenity
- Other

7.2. **Principle of Development**

7.2.1. The subject site is located in an area zoned to protect and / or improve residential amenity.

7.2.2. The appellant states that the proposed development is a backland development and should be assessed against section 8.2.3.4(vi) of the development plan. I draw the Boards attention to that section of the development plan, which clearly states that “Residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such”. Pakenham

Road would not classify as a Mews Lane, in any ordinary understanding of the word and as such the proposed development does not neatly fit into section 8.2.3.4(x) of the development plan. I note that the Planning Authority assessed the proposed development as an 'infill' development. I consider such an assessment reasonable.

- 7.2.3. The development management standards for each form of development are largely the same however, the overriding consideration being the protection of residential amenity of existing and proposed dwellings and of the accommodating area.
- 7.2.4. The proposed development is an appropriate response to under-used, serviced land that is zoned for residential development. The proposed development is in accordance with development plan policy providing for the densification of existing residential areas, infill development and standards of residential development. I am satisfied that the substantive issue to be addressed is that of traffic, residential amenity and compliance with development plan policy.

7.3. Traffic, Parking and Access

- 7.3.1. It is proposed to remove approx. 6.8m of the existing boundary wall and provide a splayed and recessed entrance to an integral garage space for one car and a pedestrian entrance.
- 7.3.2. The loss of original boundary wall would be regrettable. I note the applicants submission that any removed stone will be re-purposed on site and that the wall has already undergone demolition and re-building in 2008. The proposed development will animate a blank streetscape with a distinctly contemporary addition. The boundary wall along the entire streetscape has undergone much alteration, much of it unsympathetic. It is considered that on balance, the removal of the existing pedestrian and vehicular entrance will represent a positive impact on the streetscape.
- 7.3.3. The subject site has an existing vehicular entrance, albeit one that appears to be unused. The appellant submits that inadequate sightlines area available, and that in a 50kph zone, 70m sightlines are required.
- 7.3.4. Section 8.2.4.9 of the development plan refers to vehicular entrances. It states where a new entrance onto a public road is proposed, the Council will have regard to the road and footway layout, the traffic conditions on the road and available sightlines

and will impose appropriate conditions in the interest of public safety. The plan also states that proper provision shall be made for sightlines at the exit from driveways in accordance with the requirements in DMURS and as appropriate to the particular road type and speed being accessed.

- 7.3.5. The proposed development is a lower density residential road in a suburb. Parking on-street and general volumes of traffic are such that excessive speed should not occur. The visibility splay proposed is sufficient to give a driver advance notice of vulnerable road users and oncoming traffic.
- 7.3.6. The lack of space to turn a car on-site is not significant. Many urban drivers reverse into driveways / parking spaces and exit in forward gear. I am satisfied that the proposed parking arrangement does not represent a traffic hazard or a safety concern. The subject site is within walking distance of a bus route and a dart line. The provision of one car space is acceptable.
- 7.3.7. I note that the Transportation department of DLRCC have no objection to the proposal.

7.4. Residential Amenity

- 7.4.1. The proposed dwelling has no first-floor habitable windows on the rear (south) elevation facing Egremont. I am satisfied that no overlooking will occur from either property or from the subject dwelling to the properties on either side. The first-floor windows on the front (north) elevation of proposed dwelling are c. 20m from the appellants properties on Pakenham Villas. In an urban area, that is acceptable.
- 7.4.2. The proposed two-storey dwelling is to the north of Egremont. With a ground difference of greater than 3m from north to south, no overshadowing of the existing dwelling will occur.
- 7.4.3. I am satisfied that no injury to the residential amenity of the existing or proposed properties will arise.

7.5. Other

- 7.5.1. Visual Impact in an ACA: The appellant raises the fact that the subject site is located in an ACA and that the proposed dwelling does not positively contribute to the pattern of development in the area. There is no established building line along the

south-eastern side of Pakenham Road. Likewise, there is no uniformity in building style or design. The proposed flat roofed markedly contemporary structure is an appropriate response to the infill site.

- 7.5.2. Private Open Space: It is proposed to provide 60sq.m. private open space to the rear of the dwelling. This complies with development plan policy and is acceptable.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development to be retained in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that 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**

- 8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought 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.

Reason: In the interest of clarity.

- 2 Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

- 3 Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, 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 amenities of property in the vicinity.

- 4 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

- 5 The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development

- 6 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

- 7 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Gillian Kane
Senior Planning Inspector

28 April 2022