



An
Bord
Pleanála

Inspector's Report ABP315561-23

Development	A detached dormer bungalow located in the rear garden of an existing dwelling with vehicular access and associated development works.
Location	140 Willow Park Grove, Glasnevin, Dublin 11.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	5058/22.
Applicant	Stephen Mahon.
Type of Application	Permission.
Planning Authority Decision	Refusal of permission.
Type of Appeal	First Party
Appellant	Stephen Mahon.
Observer(s)	Liam and Marie O'Connell. Deirdre Flanagan
Date of Site Inspection	10 th May 2023.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located in the suburban area of Glasnevin in Dublin city within an established residential estate consisting mainly of terraced two storied house located off Glasnevin Avenue. On the site is a two storied end of terrace dwelling with gardens to the front and rear of the dwelling. The site fronts onto Willow Park Grove which defines the southern boundary. To the west the site adjoins the rear gardens of properties fronting onto Willow Park Road. There is a detached single storey dwelling immediately to the southwest of the which fronts onto Willow Park Grove but would appear to have formed part of the rear garden of 34 Willow Park Avenue and this dwelling has a building line forward of the properties on Willow Park Grove. The remainder of the appeal site's western boundary adjoins rear gardens and the boundary is defined by a wall approximately 1.3 to 1.4 metres in height. The northern and eastern boundaries are defined by boundary walls and the rear garden of properties and in the case of the eastern boundary in addition to the boundary wall there is well established planting which exceeds the height of the wall.

2.0 Proposed Development

- 2.1. The proposed development is for a detached dormer bungalow located in the rear garden of an existing dwelling with vehicular access and associated development works. An entrance driveway 4700mm in width is proposed along the western boundary of the site. The existing dwelling will retain a rear garden depth of 9000mm excluding the provision for the driveway to serve the proposed dwelling. The front building line of the proposed development is set back 7500mm from the new rear boundary of the existing dwelling and the rear building line proposed dwelling will be 1000mm from the northern and eastern boundaries and 4225mm from the western boundary. Private open space is indicated as an area of 72m² between the existing and proposed dwellings and an area of 34m² to the side (west) of the proposed dwelling.

The proposed dwelling has an approximate height of 6800mm and an eaves height 2700mm and a stated floor area of 123m². Two bedrooms are proposed at first floor level with windows on the front (southern) elevation with no windows on any other

elevation. Windows serving habitable rooms are proposed on the front, rear and western elevations at ground floor level. No details of external finishes are indicated.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to refuse the development. One reason was stated which refers to the proposal as an incongruous form of development in the context of the surrounding residential properties, be out of character with the pattern of development in the area, would adversely impact on the surrounding residential area and set a precedent for similar backland development. The refusal also refers to overlooking of properties to the rear of nos. 18 and 140 Willow Park Grove.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report refers to provisions of the current city development plan. Concern is indicated in relation to residential amenity for the proposed dwelling particularly in relation to daylight. The issue of impact on adjoining properties is referred to in the context of section 16.10.8 of the development plan. Reference is made to similar types of sub-division of sites in the area and that these are generally corner sites and single storey. The impact of overlooking of adjoining properties is referred to. Refusal was recommended.

3.2.2. Other Technical Reports

No objections raised.

4.0 Planning History

No specific history in relation to the site. There are references to sites where sub-division of properties to accommodate an additional dwelling in the planning report and the grounds of appeal.

5.0 Policy and Context

5.1. Development Plan

The current statutory development is the Dublin City Development Plan 2022-2028. The application when determined by the Planning Authority was the Dublin City Development Plan 2016-2022.

Chapter 5 of the 2022 plan refers to Quality Housing and Sustainable Neighbourhoods set out overall policy and strategy for the provision of housing and sustainable neighbourhoods and that there is a necessity to provide high quality, appropriately managed, sustainable, adaptable housing units with good levels of amenity that readily provide for changing needs over time including the needs of families with children, older people and disabled persons.

Policy QHSN6 Urban Consolidation in support of the approach is *“to promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation”*.

Chapter 14 refers to Land Use Zoning. The site is located within the Z1 zoning, Sustainable Residential Communities.

Chapter 15 relates to Development Standards which sets out the standards and criteria to be considered in in the development management process.

Section 15.11 relates to house developments and 15.11.3 specifically refers to private open space and private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10m². of private open space per bedspace will normally be applied. Generally, up to 60-70m². of rear garden area is considered sufficient for houses.

Section 15.11.4 refers to Separation Distances (Houses) and at the rear of dwellings, there should be adequate separation between opposing first floor windows.

Traditionally, a separation of about 22m was sought between the rear first floor windows of 2-storey dwellings but this may be relaxed if it can be demonstrated that

the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers.

Section 15.13.3 refers to Infill /Side Garden Housing Developments The development of a dwelling or dwellings in the side garden of an existing house will generally be allowed for by the planning authority on suitable large sites. In general, infill housing should comply with all relevant development plan standards for residential development. The planning authority indicates it will have regard to a number of criteria in assessing proposals for the development of corner/side garden sites including the character of the street; compatibility of design and scale with adjoining dwellings; accommodation standards for occupiers; impact on the residential amenities of adjoining sites; open space standards and refuse standards for both existing and proposed dwellings and the maintenance of the front and side building lines, where appropriate.

Section 15.13.4 refers to backland housing and Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight / sunlight are paramount to the success and acceptability of new development in backland conditions. Applications for backland housing should consider compliance with relevant residential design standards to ensure privacy is maintained and overlooking is minimised; a proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres; a relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity and all applications for infill developments will be assessed on a case by case basis.

Appendix 17 of Volume 2 Ancillary Residential Accommodation sets out a number of general principles that should be addressed in all cases and which will be applied by the planning authority in assessing applications for permission.

5.2. Natural Heritage Designations

None relevant

5.3. **EIA Screening**

The proposed development does not fall within the scope of any of the Classes of development for the purposes of EIA.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The first party appellant main grounds of appeal can be summarised as follows:

- The decision has partially been swayed by the third party objectors.
- The applicant is willing to omit the roof dormers and drawings to reflect this change are submitted with the grounds with an increased bedroom area at ground floor and retaining the existing footprint.
- Reference is made to a number of single storied detached houses in the area. Precedent for such development has occurred.
- Further information could have been requested to address concerns.
- Reference is made to a number of precedents in the area with addresses and planning references.
- The P.A. have already approved similar type development.

6.2. **Planning Authority Response**

The Planning Authority request that its decision be upheld and in the event of a grant of permission suggested conditions are outlined.

6.3. **Observations**

6.3.1. Liam and Marie O'Connell in a submission refers to;

- Reference is made to the drawings which fail to indicate an extension on their property which will be overlooked.
- There are drainage issues ongoing on the appeal site property.

- Issues are raised in relation to parking and traffic movements as it is close to a junction.

6.3.2. Deirdre Flanagan with an address of a property adjoining the northwestern corner of the appeal site in a submission refers to;

- The principle of development in this site is contrary to planning policy.
- Reference is made to precedent and two of the sites in question are corner sites and the houses are located slightly to the side of the original house and built over twenty years ago.
- Other sites referred to are not local to the area.
- The planner in the report has agreed that there is potential impacts on residential amenity on existing residents and potential residents of the proposed development arising from noise, overlooking and disturbance.
- The removal of the dormer does not address overlooking impact on 140 Willow Park Road.
- There is only one metre separation from a number of shared properties boundaries.
- The proposal has the potential to overshadow a number of adjacent gardens and the level of overshadowing or otherwise has not been demonstrated.
- The quality of design is poor and there is no information on materials or finishes.

7.0 **Assessment**

7.1. The main issues in this appeal are largely those raised in the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Principle of the development.
- Impact to residential amenity.
- Appropriate Assessment

7.2. Principle of the development

- 7.2.1. The site is located within a residential area with a residential zoning. The proposed development is therefore acceptable in principle. The Dublin City Development Plan 2022-2028 does however outline provisions for assessment of residential development.

7.3. Impact to residential amenity

- 7.3.1. The reason for refusal as stated which refers to the proposal as an incongruous form of development in the context of the surrounding residential properties, be out of character with the pattern of development in the area, would adversely impact on the surrounding residential area and set a precedent for similar backland development. The refusal also refers to overlooking of properties to the rear of nos. 18 and 140 Willow Park Grove.
- 7.3.2. In relation to overlooking the primary impact arises in relation to the location of windows at first level on the front elevation and that there would be significant overlooking from these windows into the rear gardens and properties 138 and 140 Willow Park Grove more directly to 140 and obliquely to 138. To address this the appellant in the grounds of appeal has offered an amendment which would eliminate the upper floor accommodation and removal of the windows. In the event of a permission being granted I consider that the elimination of the upper floor level windows would, I consider, address serious concerns in relation to overlooking. The absence of windows on other elevations at first floor level eliminates any impact on properties on the other boundaries. I would, however, consider that if a single storey dwelling with no upper floor accommodation was to be considered a more significant alteration of design reducing the overall height would be more desirable.
- 7.3.3. Issues in relation to overshadowing do not I consider arise. I note the location of the dwelling within approximately one metre of the northern and eastern boundaries and that some overshadowing on the adjoining properties arise but not of any habitable rooms.
- 7.3.4. In relation to issues of site coverage, plot ratio and private open space provision the proposed development would comply with required standards though I would have some concern in relation to a separation distance of less than 17 metres between the proposed dwelling and the existing dwelling on the appeal site but as already

noted if the upper floor accommodation and windows on the first floor were to be eliminated this concern would be allayed. I also note that the development plan does allow for relaxation of standards and that a proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling which is exceeded in this instance.

- 7.3.5. The primary issue in relation to the development arises from whether the proposed development is appropriate to the site and its surroundings. Backland sites as indicated in the development plan do require an assessment on a site by case basis and that the grounds of appeal has referred to precedent and that the planning authority and third parties have responded on this matter. I have noted that in some instances the subdivision of sites have in many instances being on corner sites or have large side gardens which has accommodated dwellings which maintain a front building line in reasonable symmetry to existing building lines.

In this instance however the dwelling is at the rear of the property and would I consider be out character with existing development. Although the design has provided for a relatively low eaves height of 2700mm it is within a metre of adjoining properties and would present a structure 6700mm to roof ridge height in close proximity to these properties and be excessive in scale and massing. While it is desirable to accommodate increase housing provision and efficient use of services a dwelling as proposed in the rear garden of the appeal site would not, I consider, be appropriate and would be out of character with the area.

As the Board in the first instance consider the development as applied for, I would also consider that issues of overlooking arise.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the minor nature of the proposed development and the separation distance to any European site, it is concluded that 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

- 8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

The proposed development, by reason of its scale, mass, design, and location in the rear garden of an existing dwelling constitutes inappropriate backland development which would seriously injure the amenities of property in the vicinity by reason of proximity and overlooking, would be out of character with the pattern of existing development and accordingly would be contrary to the proper planning and sustainable development of the area

Derek Daly
Planning Inspector

30th May 2023