



An
Bord
Pleanála

Inspector's Report ABP315696-23

Development	2-storey dwelling to rear of existing dwelling and demolition of a single storey dwelling
Location	Rear of 'Carna', Thormanby Road, Howth, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0341
Applicant(s)	Shona and Cian Wright.
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Tony and Frances O'Dwyer, Niall and Genevieve Fitzmaurice
Observer(s)	None
Date of Site Inspection	30 th May 2023
Inspector	Brendan McGrath

1.0 Site Location and Description

1.1. The site is an irregularly- shaped, level area, with a stated extent of 0.05ha, to the rear of an existing house on Thormanby Road, outside Howth village. The site is close to the open heathland of East Mountain. There is an existing single storey wooden dwelling on the site and two newly-built houses on the east side of the site, which are on the same landholding. A newly constructed driveway that serves the two new houses also provides access to the proposal site. The site is bounded by walls and hedges, notably a 4m high Leyland Cypress hedge on the south side.

2.0 Proposed Development

2.1. The proposal is to demolish an existing 2-bedroom dwelling (40m²) and construct a 5-bedroom, 2-storey house with a stated gross floor area of 268m². It is proposed that windows at first floor level, facing south, looking over the rear gardens of existing houses on Thormanby Road would have opaque glass. The appellants live in 'Carna' and 'Gerona', the nearest existing houses on Thormanby Road. The private open spaces proposed include a ground floor patio beside the southern boundary of the site and a first floor roof terrace above the entrance, on the north side of the building. Access would be via the newly built driveway that serves the two new houses nearby. A further information request resulted in flat roofs being replaced by pitched roofs.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 11 conditions of a standard nature

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report is the basis of the decision to grant. It states that the proposal is acceptable in principle but further information was requested seeking a revised

design more in keeping with adjacent new houses, design changes to protect residential amenity and a landscape plan including protection of existing hedges and trees. The only substantial change is pitched roofs replacing flat roofs.

3.2.2. Other Technical Reports

There are a number of other departmental technical reports. None are significant or object to the proposal.

Screening for Appropriate Assessment was carried out and it was concluded that, because there was no hydrological pathway between the site and nearby European sites and because of the nature scale and location of the proposal there was no likelihood of significant effects. The proposal was also screened for EIAR and it was concluded that by virtue of its size and scale the proposal did not require an EIAR.

4.0 Planning History

F99A/0488 Outline permission for a single dwelling

F18A/0094 Grant permission for 2, 2-storey dwellings to rear of 'Carna' using existing vehicular entrance

F20A/0454 Grant amendments to F18/0094 including a new access road to serve the two dwellings

F08A/1319 (ABP 06F /233970) land to south and east of subject site) Grant permission and grant on appeal in 2009 a scheme of 5 houses to the rear of houses on Thormanby Road.

5.0 Policy and Context

5.1. Development Plan

The relevant development plan is the Fingal Development Plan 2023- 2029, which came into effect in April 2023. The site is zoned RS Residential 'Provide for residential development and protect and improve residential amenity.'

The site is also part of the Howth Special Amenity Area Buffer Zone and beside the Howth Special Amenity Area itself (about 12m distant). The designation of a buffer zone is a policy under Objective 1.3 of the Order 'to protect the special amenity area and to ensure that its resources are used in an effective and sustainable manner.' The Special Amenity Area Order (SAAO) was made in 2000. Policies and objectives of the Howth SAAO are incorporated into the county development plan.

5.2. Natural Heritage Designations

The site is near the Howth Head SAC (000202) and Howth Head SPA (004113). It is about 160m from the land-side boundary of the SAC.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

Appeals have been submitted on behalf of Tony and Frances O'Dwyer and Niall and Genevieve Fitzmaurice, the occupants of the two houses on Thormanby Road, 'Carna' and 'Gerona' closest to the appeal site. The grounds can be categorised and summarised as follows:-

Legal and procedural matters

- no permission for the existing dwelling
- status of the proposed access

- non advertisement of further information

Impact on adjoining properties

- Excessive height and scale, overbearing
- Overlooking of private gardens
- Overlooking of living rooms
- Overshadowing and loss of sunlight
- Loss of development potential

Quality of proposed dwelling

- Inadequate open space provided

Contrary to objective and policies of the county development plan and Howth

Special Amenity Area Order (SAAO)

- Material contravention of zoning objective for area
- Adverse visual impact on the area of the Howth Special Amenity Area Order
- Adverse visual impact on the Howth SAAO buffer zone

6.2. Applicant Response

Legal and procedural matters

- The proposal is not put forward as a replacement dwelling and the proposal should be considered on its own merits without regard to the status of the existing dwelling on the site
- The applicant has not responded to the access matter raised

Impact on adjoining property

- The proposal is 'a sensitive design approach', 'in accordance with the pattern of development in the surrounding area'.
- The proposal meets the minimum standards in respect of overlooking of living rooms. While a 22m separation distance is not achieved, relevant windows have been designed to prevent overlooking, in accordance with council standards
- There is no overshadowing or loss of sunlight demonstrated by submitted sunlighting and shadow assessments

- There is no loss of development potential in respect of the rear garden of 'Gerona'

Quality of proposed dwelling

- The proposal private space provision is in excess of minimum standard prescribed

Development plan and SAAO objectives and policies

- The proposal is in accordance with the development plan and SAAO

6.3. Planning Authority Response

The planning authority has responded that it took into account third party submissions and that it considers the proposal to be consistent with 'proper planning and sustainable development of the area'

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:- legal and procedural matters, residential amenity, development plan and SAAO policy and AA.

7.2. Legal and procedural matters.

It is acknowledged by all parties that the existing dwelling does not have planning permission. However, I do not think that this matter has a bearing on the proposal under consideration. The application was accompanied by a letter from the landowners of the red-outlined site consenting to the making of the application but no consent from the owner of the private roadway, by which it is proposed to access the house. As that landowner had consented to using the land as an access to the two houses already built on the subject landholding, I think it is reasonable to assume that formal consent would also be forthcoming for this proposal if required. This matter could be the subject of a condition in the event of a grant. As a result of a further information request there was a

significant design change to the house with pitched roofs replacing the flat roofs originally proposed, raising the height of the building by 1.7m. One appellant has asserted that the roof changes are significant and a new public notice was 'probably warranted'. In my opinion this was not an essential requirement.

7.3. Residential amenity.

The proposal is a large house (286m²) on a small site (0.05ha) on the side of a hill with existing residential properties on three sides in close proximity, including two houses at a lower level. The protection of residential amenity was therefore bound to be an important design issue. Of particular concern is the overlooking of 'Carna' and the overlooking of the rear gardens of 'Carna' and 'Gerona'. There is a separation distance of 16.3 m between the kitchen window of Carna and windows in the proposal, The separation distances available are low and the overlooking issue addressed by window design, including opaque glass in bedroom windows. In relation to impact on rear gardens the proposal windows are a minimum of 11m from the 'Gerona garden. The proposed patio on the south side of the house is beside the rear garden of 'Gerona' and is about 2 metres above the level of that garden. I think the largely blank wall of the west facing elevation of the proposal, 19 metres to the east and some 2 metres higher up the slope, is 'overbearing', viewed from 'Carna'. I consider that the residential amenity of 'Gerona', especially the private character of its rear garden is too dependent on the survival of the existing boundary hedge. I believe the latent development potential of this garden would be compromised by the proposal.

7.4. Development Plan and SAAO policy

The RS- Residential zoning covers a wide range of residential areas and gives equal weight to 'residential development' and 'protection of residential amenity'. In this instance, however, the overlaying of that zoning by the designated Howth SAAO buffer zone, very clearly, in my opinion, signals that 'protection of residential amenity' should be the uppermost consideration in this instance. There is considerable scope for densification in the locality, which is evidenced by development management history, including grants of permission on appeal (specifically, ABP 06F 233970) but not, in my opinion, at a significant amenity cost. And, contrary to the assertion of the applicant the proposal would be visible

from the nearby Special Amenity Area and, in my opinion, would exacerbate the visual impact of the hard building edge that has been created by the adjacent new houses.

7.5. Appropriate Assessment

Having regard to the fact that the proposal relates to construction of a single house and there is no hydrological pathway to the nearby SAC, 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

I recommend that permission is refused for the reasons and considerations set out below.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

9.0 Reasons and Considerations

Having regard to the location of the site in the designated buffer zone of the Howth Special Amenity Area Order (SAAO), as delineated in the Fingal Development Plan 2023-2029, it is considered that the proposed development, by reason of its height, scale, massing and bulk, would constitute overdevelopment of the site and seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Brendan McGrath
Planning Inspector

22nd June 2023