



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316852-23

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<b>Development</b>	Construction of a dwelling.
<b>Location</b>	Site to side of 2 Riverside Park, Clonshaugh, Dublin 17.
<b>Planning Authority</b>	Dublin City Council North.
<b>Planning Authority Reg. Ref.</b>	3195/23.
<b>Applicant</b>	Andrew Brown.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Andrew Brown.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	20 <sup>th</sup> June, 2023.
<b>Inspector</b>	Terence McLellan

## 1.0 Site Location and Description

- 1.1. The appeal site refers to the dwelling and plot located at 2 Riverside Park, Clonshaugh, Dublin 17. The existing semi-detached dwelling rises to two storeys and benefits from a single storey rear extension that runs to the rear property line. There are two substantial dormer windows, one on the rear roof and one on the side roof. The existing dwelling was previously in use as a B&B with up to seven bedrooms and has continued to be listed as a seven bedroom property in previous planning reports, although the appeal submission states that it is a three bedroom property.
- 1.2. The existing dwelling sits within a large corner plot and is bounded to the north by Riverside Park and the adjacent two storey homes, to the east by the adjoining dwelling at No. 4, to the south by the two-storey dwelling at No. 70 Clonshaugh Road and bounded to the west by Clonshaugh Road and the adjacent commercial premises which include retail and data centres.

## 2.0 Proposed Development

- 2.1. The proposal is for the subdivision of the plot and the erection of a two-storey, three-bedroom, detached dwelling with a single storey rear element. The new dwelling would occupy the side/corner garden of the parent dwelling and would share an access from Riverside Park.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission for the proposed development was issued on 4 April 2023. The reason for refusal is as follows:

‘The Dublin City Development Plan 2022-2028 requires, under Section 15.13.3: Infill/Side Garden Housing Developments, that the Planning Authority shall have regard to criteria for any new corner/side garden dwelling to demonstrate compatibility of design and scale with adjoining dwellings, paying attention to the established building line in addition to giving due regard to the criteria for open space standards for both

existing and proposed dwellings. Having regards to the prominent and exposed location of this corner site, it is considered that the proposed development, by reason of its scale, form, and design, would be visually obtrusive, would breach the established building line along Clonshaugh Road, would reduce the openness of the established streetscape and would provide an unacceptable level of remaining usable private open space for the current and future occupants of the parent dwelling (No. 2 Riverside Park). The proposal would, as a result, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.’.

### **3.2. Planning Authority Reports**

- 3.2.1. The report from the Deputy Planning Officer was issued on the 3<sup>rd</sup> April 2023 and forms the basis of the Council’s assessment and decision. In their report, the Deputy Planning Officer indicates acceptance of development on the site in principle but notes that the primary concerns raised in the previous refusal of planning permission have not been satisfactorily addressed. These concerns relate to the size of the proposed dwelling and the shortfall of remaining private open space to serve the parent dwelling.
- 3.2.2. The report indicates that the scale of the dwelling, in combination with the location within the side garden/corner plot, is excessive and as a result appears prominent and overbearing. The report suggests that a single storey property in this location would likely overcome this concern.
- 3.2.3. In terms of the remaining private open space to serve the parent dwelling, the report considers the parent dwelling to be a seven bedroom property and concludes that there would be a significant shortfall in private open space after redevelopment.
- 3.2.4. **Other Technical Reports**
- 3.2.5. Drainage Division (23.03.2023): Recommend that permission is withheld until satisfactory information is submitted regarding surface water drainage. Additional conditions are recommended for surface water management, SUDS and a Flood Risk Assessment.

- 3.2.6. Transportation Division (20.03.2023): No objection, subject to conditions. The relevant conditions relate to entrance width, dishing of kerb and footpath, recovery of costs and compliance with the Code of Practice.

### 3.3. **Prescribed Bodies**

- 3.3.1. None.

### 3.4. **Third Party Observations**

- 3.4.1. None.

## 4.0 **Planning History**

- 4.1.1. There is a long planning history for the appeal site including two previous refusals for the proposed development. The relevant site history is set out below:

- 4.1.2. **Planning Authority reg. ref. 5013/22:** Retention permission was refused in December 2022 for the existing attic conversion as constructed, including dormer extensions to the rear and side of the attic conversion and all associated site works. The reason for refusal reads as follows:

‘The current Dublin City Development Plan 2016-2022 requires, under Section 16.2.2.3, that extensions should be clearly subordinate to the existing building in scale and design and under Appendix 17 that dormer extensions should reflect the character of the surrounding buildings and the age and appearance of the existing building. Having regard to the prominent and exposed location of this corner site, the development to be retained would be visually dominant, overscaled and obtrusive in the streetscape and would therefore, in itself by the precedent it would set for the construction of similar dormer extensions, be seriously injurious to residential and visual amenity and be contrary to the proper planning and sustainable development of the area.’

- 4.1.3. This refusal has been appealed to the Board under reference ABP-315490-23 and the case is yet to be determined.

4.1.4. **Planning Authority reg. ref. 4897/22** – Permission refused in November 2022 for: The sub-division of the existing site to construct a detached two storey four bedroom house, connection to public foul sewer and all associated site works. The reason for refusal reads as follows:

‘The current Dublin City Development Plan 2016-2022 requires, under Section 16.10.9, that any new corner/side garden dwelling respect the character of the street and be compatible with the design and scale of adjoining dwellings. Having regard to the prominent and exposed location of this corner site, it is considered that the proposed development, by reason of its scale, form and design, would be visually obtrusive, would breach the established building line along Clonshaugh Road, would reduce the openness of the established streetscape and would provide an unacceptable level of rear private open space for the occupants of the parent dwelling. Furthermore, the proposal does not fully meet the minimum requirements set out for a four bedroom dwelling (4Bed/7P) as outlined in the Quality Housing for Sustainable Communities Best Practice Guidelines for delivering Homes Sustaining Communities (DoEHLG,2007). The proposal would as a result be contrary to the policies and objectives of the current Dublin City Development Plan and the proper planning and sustainable development of the area.’

4.1.5. **Planning Authority reg. ref. 3878/22** - Permission was refused in June 2022 for: The sub-division of existing site for the construction of a detached two storey four bedroom house with home office in attic space, connection to public foul sewer and all associated site works. The reason for refusal reads as follows:

‘Having regard to the restricted nature and prominent location of this corner site, it is considered that the proposed development, by reason of its scale, form and design would constitute overdevelopment of a limited site area, would breach the established building line along Clonshaugh Road and reduce the openness of the established streetscape, would be visually obtrusive on the streetscape of Riverside Park and Clonshaugh Road and would result in substandard private amenity space for the occupants of the parent dwelling. The proposed

development would therefore be contrary to the Z1 residential zoning objective for the area, the provisions of the Dublin City Development Plan 2016 – 2022 and the proper planning and sustainable development of the area.’.

- 4.1.6. **Planning Authority reg. ref. 3584/22** – Permission was granted at the parent dwelling in June 2022 for: The demolition of existing single story sub-standard side extension to existing end of terrace two storey house, permission for the construction of an attic conversion with permission to construct a dormer side and rear window, permission to enlarge existing vehicular entrance and all associated site works.
- 4.1.7. Condition 12 of this consent placed limits on the size and design of the dormer extensions which were subsequently built in non-compliance with the condition. An application for retention permission was then submitted and refused as detailed in paragraph 4.1.2 above.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The Dublin City Development Plan 2022 – 2028 (CDP), categorises the site as zone ‘Z1 – Sustainable Residential Neighbourhoods’. The stated objective for these areas is ‘to protect, provide and improve residential amenities.’.
- 5.1.2. Chapter 15: Development Standards contains Section 15.11.3: Private open Space, sets out the relevant requirements for private open space for new dwellings.
- 5.1.3. Section 15.13.3: Infill/Side Garden Housing, states that the development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands and sets out a full list of criteria to be used in assessing this type of development.
- 5.1.4. Appendix 5, Section 4.3.1: Dimensions and Surfacing, sets out the relevant dimensions for vehicular access and egress at residential properties.

### 5.2. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area (adopted June 2019)

5.2.1. This strategy provides a framework for development at regional level. The RSES promotes the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

### **5.3. The National Planning Framework**

5.3.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements. Objective 35 is to increase residential density in settlements and makes specific reference to infill development.

### **5.4. Ministerial Guidelines**

- Design Manual for Quality Housing (2022).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).
- Quality Housing for Sustainable Communities (2007).

### **5.5. Natural Heritage Designations**

5.5.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), the North Bull Island SPA (Site Code 004006) and the North Dublin Bay SAC (Site Code 000206).

### **5.6. EIA Screening**

5.6.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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. An appeal has been lodged by Andrew Brown of Laragh, Kilcock, Co. Kildare, against the decision of Dublin City Council to refuse permission for the subdivision of the plot and the erection of a detached, two storey three-bedroom house. The grounds of appeal are as follows:

- The proposed development represents the most appropriate form of infill development and would be consistent with the scale and pattern of development in the area.
- The planning department has taken the view that a two storey property would be incongruous when the area is predominantly two storey and there are several examples of two storey infill development.
- The building line would be maintained, and there is no sense of openness to the streetscape.
- The area is predominantly a busy road with high traffic and stating that this area deserves a single storey building is not reasonable or balanced.
- The parent dwelling is no longer in use as a B&B as the rooms were too small to be used as bedrooms and there was no market. It is now in use as a three bedroom house with 40sqm private amenity space which is adequate.
- Due to its age, the parent dwelling only requires 25sqm private amenity space.
- The proposed dwelling would be subservient to the parent dwelling.
- The parent dwelling and the subdivision are in separate ownership and that the appellant has no legal right to the increase or amend the subdivision boundary

### 6.2. Planning Authority Response

6.2.1. None.



### 6.3. Observations

6.3.1. None.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Visual Amenity
- Residential Amenity
- Other Matters
- Appropriate Assessment

### 7.2. Visual Amenity

7.2.1. The grounds of appeal state that the development would be consistent with the scale and pattern of development in the area, would maintain the established building line, would not appear incongruous or affect openness and would be subservient to the parent dwelling. The appellant has indicated several examples of similar development in the area which I noted on my site inspection.

7.2.2. Existing dwellings in the area are mainly two storey in height and whilst the proposal is also for a two storey dwelling, this must be compatible with other factors such as visual amenity. Due to its location on a corner, the appeal site forms part of two independent building lines, that of Riverside Park and that of Clonshaugh Road, both of which are relevant to the development. The proposed dwelling would have its main frontage onto Riverside Park where it would be in alignment with the building line on this street. The side elevation of the parent dwelling forms part of the consistent and established building line of the dwellings on Clonshaugh Road. In occupying the side/corner garden, the proposed dwelling would sit a full house width proud of this building line and this would be particularly visible in views from the north and south.

7.2.3. Section 15.13.3 of the CDP states that development must pay attention to the established building line. I consider that the proposed development would have an adverse visual impact on the character of the area. The proposal would significantly disrupt the consistent and established building line on Clonshaugh Road and would form an incongruent feature in the streetscape, which would compromise openness and would be inconsistent with the established pattern and character of development.

7.2.4. I accept that there are examples of two storey infill/side garden development, however, these are on sites that are embedded well within the estate where they are much less visually prominent in comparison to the appeal site which sits on an exposed and prominent corner. I also note the appellants claim that the proposal would be subservient to the parent dwelling. The proposed dwelling has a greater façade width than the parent dwelling and they match in height at the eaves. Whilst the ridgeline of the proposed dwelling is lower than that of the parent dwelling, it is not significantly lower. As such, I do not consider that the proposed dwelling is subservient to the parent dwelling.

### **7.3. Residential Amenity**

7.3.1. The appellant submits that a 40sqm rear garden would be sufficient to serve the parent dwelling after subdivision of the garden. Section 15.11.3: Private Open Space, sets out the open space standards for homes, with a minimum standard of 10sqm of private open space per bedspace normally being applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. This section also states that 60-70sqm is generally sufficient for houses in the city.

7.3.2. The main issue in this instance is the acceptability of the remaining private amenity space to serve the parent dwelling. The appellant submits that the parent dwelling has three bedrooms whilst Dublin City Council consider it to have seven bedrooms, based on previous planning reports and marketing materials for the sale of the property. The plans submitted with the appeal show three bedrooms on the first floor of the parent dwelling. Additional rooms that could be used as bedrooms include the large attic room and the downstairs playroom. The home office and utility room are too small to be used as bedrooms. I am therefore satisfied that the property has at least five rooms capable of being used as bedrooms and this equates to nine bedspaces. This would

typically generate a private amenity space requirement of 90sqm although regard should be given to the fact that it's an existing dwelling.

7.3.3. However, even when applying the lower open space target of 60sqm, the remaining private amenity space for the parent dwelling would be significantly undersized. It is my view that a 40sqm garden would be insufficient to serve a family dwelling with at least five bedrooms and that the residential amenity of present and future occupiers would be compromised. The development would therefore not comply with Section 15.13.3 of the CDP as it fails to have regard to the open space standards for both the existing and proposed dwellings.

7.3.4. The appellant claims that 25sqm is the minimum garden size required due to the age of the parent dwelling. A minimum garden size of 25sqm refers to standards set out under 'Exempted Development' which is not applicable in this instance.

#### **7.4. Other matters**

7.4.1. The appellant's agent states that the parent dwelling and the subdivision are in separate ownership and that the appellant has no legal right to the increase or amend the subdivision boundary. Boundary issues are generally a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act. However, it should be noted that the appellant is listed as the owner on the applications and appeals for both the parent dwelling and the subdivision (as detailed in the planning history section).

#### **7.5. Appropriate Assessment**

7.5.1. Having regard to the nature of the development, its location in a serviced urban area, 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. Having regard to the above, I recommend that planning permission should be refused for the reasons set out below.

## 9.0 Reasons and Considerations

- 9.1.1. The proposed dwelling, by reason of its prominent location on an exposed corner site and its excessive scale and massing, would significantly disrupt the consistent and established building line on Clonsaugh Road, forming a visually obtrusive and incongruent feature in the streetscape, which would compromise openness and would be inconsistent with the established pattern and character of development. The proposed development would be contrary to Section 15.13.3 of the Dublin City Development Plan 2022-2028 and would seriously injure the visual amenity of the area and of property in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
- 9.1.2. The proposed development would result in a significantly undersized private rear garden for the parent dwelling at No.2 Riverside Park, and the remaining usable private open space would be insufficient to meet the needs of a family dwelling, thereby compromising residential amenity for present and future occupiers. The development would therefore not comply with Section 15.13.3 of the Dublin City Development Plan and would seriously injure the residential amenity of the parent dwelling. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
- 9.1.3. 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.

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Terence McLellan  
Senior Planning Inspector

11 July 2023