



An
Bord
Pleanála

Inspector's Report ABP 317246 - 23

Development	Change to roof pith to facilitate upstairs attic conversion to habitable rooms, new rooflight to north front elevation, three new rooflights to south rear elevation, internal alterations and site works.
Location	No 27 Dartry Park, Dublin 6.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB 1021/23
Applicant	David Harte and Lisa McNamee
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Robert Mc Kay & Ann O'Hare, Colin Morrissey and Anna Berry.
Observers	Rose Ponsonby Brendan McAdoo
Date of Site Inspection	6 th September, 2023
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The application site which has a stated area of 311 square metres is located off at the hammerhead at the end of Dartry Park is subdivided from the original rear garden of No 14 South Hill in the early 1980s further to a grant of permission for development of a dwelling. A bungalow is located on the site the gable ends of which abut the two side boundaries at the lower ends of the properties at No 15 and 16 South Hill. A block wall is located along the boundary with the remaining rear garden area of No 14 South Hill.
- 1.2. No 14 South Hill has been upgraded extended and altered. The main living accommodation overlooks the rear garden extended at the side and to the rear where is main living space opening onto a terrace. The adjoining property at No 15 South Hill has also been extended at the rear.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for alterations to the existing dwelling to provide for habitable accommodation, A master bedroom and ensuite at attic level. The proposals provide for alterations to the roof pitch, proviso for a rooflight in the north front roof slope and three rooflights in the rear, south roof slope 148.46 square metres.
- 2.2. As such, while the eaves heights are to remain unaltered the roof ridge height, is increased from 4466 mm to 6653 mm with a corresponding alteration to the pitch according to the lodged plans is increased from the roof pitch is correspondingly altered.
- 2.3. An additional information request was issued in respect of the proposals for the rooflights in the rear roof slope facing towards the properties on South Hill to which the applicant's agent responded on 17th April 2023 indicating revisions to include a raised cill position to 1.8 m above floor level for the rooflights to eliminate overlooking and obscure glazing for a lower level accessible rooflights to be used as an escape window given the increased level for the rooflights. Annotated separation distances from the rooflights to the party boundary and rear wall of the adjoining dwelling are also provided on a site plan.

2.4. Unsolicited further information was lodged with the planning authority on 3rd March, 2023 indicating additional dimensions on a site layout plan.

3.0 **Planning Authority Decision**

3.1. **Decision**

By order dated, 12th May, 2023 the planning authority decided to grant permission subject to conditions all of which are of a standard nature.

Condition 6 contains that a requirement that the attic level space not be used for human habitation in the absence of compliance with Building Regulations.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planning officer in his initial report considered the proposed development consistent with the CDP standard and recommendations but recommended the request for additional information in respect of the rear slope rooflights. (See 2.3 above) In his final report on the further information submission the planning officer indicated satisfaction with the proposed development and a recommendation for a grant of permission.

3.2.2. Other Technical Reports

3.2.3. The internal technical reports and the report of Irish Water indicated no objection to the proposed development

Observer submissions lodged by three parties indicated objection based on overdevelopment and insufficient capacity in the site, overbearing and overlooking impact and incompatibility with existing surrounding development.

4.0 **Planning History**

P. A. Reg. Ref. 3973/05 / PL 215102: The planning authority decision to grant permission for demolition of the bungalow and to construct a two storey detached house was overturned following appeal based on reasoning of serious injury to residential amenity, devaluation of property and conflict with the zoning objective

due to mass height positioning, and design, and overdevelopment, visual obtrusiveness, overlooking and overshadowing and incompatibility with the established pattern of development.

P. A. Reg. Ref. 2423/07 Permission was refused for a two storey detached house based on the following reason:

“The site of the proposed development is located in an established residential area for which the land use zoning objective Z1, as set out in the current development plan for the area, is to protect, provide and improve residential amenities. Having regard to its height, design and proximity to the boundaries of the adjoining residential properties, it is considered that the proposed development would be visually obtrusive, overbearing, and out of character with the pattern of development in the vicinity and would give rise to overlooking and overshadowing of adjoining dwellings. The proposed development on a relatively restricted site would, therefore, seriously injure the amenities and depreciate the value of property in the vicinity, would conflict with the zoning objective as set out in the Development Plan and would be contrary to the proper planning and sustainable development of the area”.

5.0 Policy and Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2022-2028 according to which the site is within an area subject to the zoning Objective Z1 ‘ Residential Neighbourhoods *“To protect, provide and improve the residential amenities”* Guidance on policy and objectives for Z1 zoned lands is in section 14.7.2.’ The principal land use which is encouraged is housing. Residential use is permissible within the land use zoning objective for the site. *The change of use from commercial to residential use is therefore acceptable in principle. The general objective is to discourage unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.*

5.2. EIA Screening

5.3. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts so the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged with the Board on behalf of the appellant party on 1t June, 2023 and it includes an account of the planning background and context and a description of the proposed development. According to the appeal:

- The inclusion of condition No 7 attached to the original grant of permission under P. A. Reg. Ref. 2031/81 for the dwelling in which exempt development entitlements are removed was well considered as it is a recognition of the restrictions and lack of capacity of the site for further development.
- The refusal of permission for a similar proposal under P A. Reg. Ref. 3973/05, which was upheld following appeal under PL 215102 for two reasons, (which are directly quoted in full along with an extract from the Inspector's report in the appeal) are relevant and central to the consideration of the current proposal. There has been no material change with regard to the "Z1" zoning objective and the receiving environment
- Similarly the refusal of permission for another proposal under P A. Reg. Ref. 3973/05 is noted with regard to excessive intrusiveness and overbearing impact. The planning officer agreed that a low profile dwelling only is suitable for the site
- The property is erroneously described as a "single bedroom bungalow." There is no justification for demolition of the bungalow on the basis of inadequate accommodation:- The application drawings indicate a single bedroom dwelling which differs from a three bedroom dwelling as indicated for

the prior applications and described in the planning officer report on the application lodged under P. A. Reg. Ref. 2423/07. The history files therefore show that the dwelling has three bedrooms, sitting room dining room kitchen and bathroom. It is unclear as to why this optimum layout is now to be discarded. In sales literature relating to the recent sale of the property is described as a four bedroom dwelling.

- Nos 14 and 15 South Hill are the most affected properties. The existing dwelling was constructed within 0.2 metres of the lateral boundary which is a concrete block wall which is inadequate. The outcome is an excessive and overbearing impact on No 15 South Hill. The front and rear elevations assist in integrating the dwelling into the receiving environment with the modest low profile and harmonious layout. The proposed development, incorporating the first floor addition has the greatest impact on the third party properties with overlooking windows and visual dominance in that the dwelling appears considerably closer to the adjoining South Hill properties.
- In concluding remarks it is submitted that the proposed development represents a departure from the established layout and design which is excessive and would have a damaging impact on Nos 14 and 15 South Hill and, that this has already been demonstrated in the planning history.

A draft for proposed reasons and considerations for refusal of permission has been included at the end of the appeal.

6.2. Applicant Response

A submission was received from the applicant's agent on 29th June, 2023 the contents of which are outlined below:

- At attic conversion is proposed with no increase in eaves height or construction of new walls. The ridge line is to increase with rooflights the rear slope which will be obscure glazed up to a minimum height of 1.8 metres.
- The appeal is made by one party whereas South Hill is a large residential area, and no objections were lodged by residents of properties on the north side or on Dartry Park.

- The site location is not in a conservation area and is zoned Z1 – ‘sustainable residential neighbourhoods. Additional dwellings are not proposed.
- There are no procedural issues which arose at application stage.
- No boundaries or walls subject of the original grant of permission in 1981 are to be altered and no boundaries with No 15 South Hill are affected
- The conditions attached to the planning authority decision are welcomed and benefits the environs in the area.
- No 15 South Hill, property of the appellant is a separate dwelling to No 14 South Hill and not directly opposite the proposed development. The proposals for the rear rooflights with obscure glazing address any concerns as to potential adverse impacts on property at South Hill Park.
- The comments in the appeal on the planning history are noted. The public notices are accurate, the converted space is to be 58 square metres in area. The development was not described as a single bedroom dwelling. The substandard size rooms are used for utility and storage space.
- Every effort has been made to mitigate potential for overlooking of adjoining properties, boundaries, separation distances as outlined under Section 16.10.2 of the CDP Residential Quality Standards – Houses. (An extract is included.
- There is no intention to demolish the existing dwelling.

Attached to the submission is a statement by David Harte and Lia McNamee (applicant) in which they state that their existing dwelling has limitations and that the proposed development, which they consider to be modest, will provide for their accommodation needs and provides an opportunity to address poor insulation and upgrade the BER rating on the dwelling .

6.3. **Planning Authority Response**

In a submission received from the planning authority on 27th June, 2023 it is requested that the decision to grant permission be upheld and that a condition for payment of a development contribution be included if permission is granted.

6.4. **Observations**

Submissions were lodged by two parties, Brendan McAdoo, of No 26 Dartry Park and Rose Ponsonby, of No 4 Dartry Park both of whom indicate support for the proposed development and consider it to be compatible with existing development and the residential amenities of the area.

6.5. **Representation.**

A statement dated 29th June 2023 in support of the application has been lodged with the Board by Councillor Hazel Chu.

7.0 **Assessment**

7.1. The issues central to the determination of a decision can be considered under the following subheadings:

Clarification of application details and extent and nature of the proposed development.

Impact on Residential and Visual Amenities

Appropriate Assessment

Clarification of details. and extent and nature of the proposed development

7.2. With regard to some of the contentions and observations in the appeal some clarification regarding the nature of the proposed development may be helpful

7.3. It is contended in the application that objection has been made by one property only. However, for the purposes of f of occupants of the two properties at No 14 and No 15 South Hill. In other words, the appeal is made by one party comprising occupants

of the two (adjoining) properties. This is confirmed by the Appellant Party's agent in the opening paragraph of the appeal.

- 7.4. It can also be confirmed, having regard to the now extant Dublin City Development Plan, 2022-2028 that the site is not within a 'conservation area' or subject to the zoning objective 'Z2'. The application property, the properties on Dartry Park and the adjoining appellant party properties on South Hill are in an area subject to the residential zoning objective 'Z1' which is the appropriate zoning objective for established residential areas, without special architectural conservation merit.
- 7.5. Furthermore, from review of both the development descriptions in the application and the application drawings and written documentation, that there are no proposals for demolition and reconstruction and that the footprint of the dwelling within the site is to remain unaltered. It is understood that alterations to foundations or boundary treatment are included in the proposals.
- 7.6. As has been pointed out in the appeal, exempt development entitlements were removed, by condition attached to the original grant of permission. It is not agreed that such a restriction can be interpreted to exclude possible consideration of alterations to provide for habitable accommodation at attic level. There is no evidence of condition to prior grants of permission that precludes possible future consideration of attic / roof level alterations and use at attic level for habitable occupation.
- 7.7. Having regard to the foregoing, it cannot be argued that the proposed development materially contravenes a prior grant of permission, or a condition attached. However, as is recognised in the application submissions, the proposed development is not within the scope of exempt development entitlements providing for the additional habitable accommodation involving significant material changes to the roof profile.
- 7.8. The appellant includes observations on the description and layout of the internal accommodation within the dwelling which it is understood is of relevance to rejection of an argument as to the dwelling being of insufficient size for the applicant's accommodation needs. Notwithstanding the individual accommodation requirements of the applicant, it is considered that delivery of a sustainable and versatile high quality upgrade to an existing modest 1980s dwelling is in the interests

of current policies for housing stock and sustainable residential development and as such is to be encouraged.

Impact on Visual and Residential Amenities.:

- 7.9. The existing dwelling is directly to the rear and overlooked by the property at No 14 and the adjoining property at No 15 the rear garden of which extends along the east side boundary of the application site which is adjacent to the gable end of the existing dwelling.
- 7.10. While the proposed gable end of the bungalow will become more prominent as perceived from the northern end of the rear garden of No 15 South Hill due to the proposed increase in ridge height the effect is limited by the mass and form above the existing and unchanged eaves. It is considered that the proposed development is acceptable in this regard in that it would not unduly affect the amenities of the gardens or the dwelling itself at No 15 South Hill.
- 7.11. With regard to the No 14 South Hill, it is considered that the existing bungalow has capacity for an attic conversion as proposed in the further information submission and the decision of the planning authority is supported in this regard. There is no scope for overlooking on the internal accommodation. Nor is there scope for reciprocal overlooking between the proposed attic level accommodation and the existing rear elevation windows and glazing at No 14 South Hill, (or No 15 South Hill) due to the positioning of the rear velux windows at 1.8 metre above the finished floor level in the rear slope of the roof the ridge of which is to be raised. Furthermore the obscure glazing for the required escape windows satisfactorily mitigates any potential or perception of potential overlooking.
- 7.12. Finally, it is considered that there is a sufficient separation distance between the footprints of the existing dwelling and those of the adjoining dwellings on South Hill, to allow for the increase in height, pitch and the corresponding south facing surface area above eaves height resulting for the proposed roof alterations. The altered dwelling would be more prominent in the outlook towards the application site, but it is not agreed that the altered profile would give rise to undue adverse impact on residential amenities of the private open space or the dwellings at No 14 and 15 South Hill.

Appropriate Assessment Screening

- 7.13. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. In conclusion, in view of the foregoing, it is considered that the proposed development involving the alterations to the roof profile satisfactorily provides for additional habitable accommodation which correspondingly upgrades and enhances the residential quality of the existing dwelling, is compatible with and will not adversely affect residential amenities at adjoining properties and, is in the interests of sustainable residential development. It is therefore recommended that the planning authority decision to grant permission be upheld and that permission be granted based on the reasons and considerations and subject to the conditions which follow.

9.0 Reasons and Considerations

Having regard to the nature and design of the proposed alterations to the roof height and profile, the footprint of the dwelling in relation to that of dwellings on adjoining sites, and to established character of existing residential development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would seriously injure the residential amenities of adjoining properties or the visual amenities of the area, would not devalue property in the vicinity and, would 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 as amended by the further plans and particulars submitted on 17th April, 2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The escape windows in the rear roof slope shall be glazed with obscure glass on a permanent basis. The three main roof lights for the south facing slope shall be installed at a minimum height of 1.8 metres above the finished floor level within the attic level.

Reason: In the interests of clarity and the protection of residential amenities of adjoining properties.

3. Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

5. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

6. 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.

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.

Jane Dennehy
Inspector
11th September, 2023.