



An
Bord
Pleanála

Inspector's Report

ABP-320673-24

Development	Retention of amendments to previously approved 2 bed house (Reference D21A/1025) to include increase in parapet height by approximately 690mm and additional internal floor area of 5 sqm at ground floor and 4 sqm at first floor (in addition to permitted 119 sqm).		
Location	39A Finsbury Park, Churchtown, Dublin 14.		
Planning Authority Ref.	D24A/0409.		
Applicant(s)	Martin & Eithen Moran.		
Type of Application	Permission for Retention	PA Decision	Grant retention with conditions.
Type of Appeal	Third Party	Appellant	Orla & Alan Fanagan & Others.
Observer(s)	None		
Date of Site Inspection	14 th November 2024.	Inspector	Des Johnson

Context

1. Site Location and Description.

1.2 Finsbury Park is an established residential estate to the south of Churchtown Road Upper in Dublin 14. The entrance to the estate is opposite Woodlawn Terrace and Glenbower Park. The appeal site (No. 39A) forms a large side garden attached to No.39, which is a large two storey detached dwelling, with a stated floor area of 270sqm. This section of Finsbury Park has 5 detached houses on the

south west side of the road, and Notre Dame School complex to the north east side. The appeal side lies at the entrance to the cul de sac.

1.3 The appeal site is roughly triangular in shape, and has a boundary with Nos. 36-38 Finsbury Park, detached two storey houses with north-east facing rear gardens, and raised relative to the appeal site.

1.4 I was unable to gain access to the subject dwelling, or to No.36 Finsbury Park at the time of inspection. I did gain access to the rear gardens of Nos.37 & 38 Finsbury Park.

2. Description of development.

2.1 The proposal is for the retention of amendments to previously approved 2-bed house (D21A/1025) to include increase in parapet height by approximately 690mm, and additional floor area of 5sqm at ground floor and 4sqm at first floor (in addition to permitted 119sqm).

2.2 The site area is stated to be 0.0422ha.

2.3 It is stated that the application is in response to a Warning Letter (ENF 02124) regarding alleged unauthorised development at the site, and seeks retention of small increases in floor area above that previously permitted.

3. Planning History.

3.1 ABP Ref. 312698-22 – Permission granted on appeal for development consisting of the demolition of existing carport and utility (32sqm), construction of new two-storey 2 bed detached house (area 119sqm) adjacent to the existing house; alterations to the existing house; alterations to front boundary to form separate vehicular access to both houses; subdivision of front and rear gardens; construction of new garden wall to side of new house and new side boundary walls to front and rear, and all ancillary works, at 39, Finsbury Park.

The decision was subject to 11 conditions. The permitted dwelling is shown as 6100mm in height, with parapet the same height of the eaves on No. 39.

3.2 ABP Ref 301355-18 – Permission refused on appeal for proposed development consisting of the demolition of an existing carport and utility and construction of new utility (area 9.3 sqm); construction of two-storey detach house (area 145 sqm) to the side of existing house; alterations to front boundary to form separate vehicular access to both houses; subdivision of front and rear gardens; construction of new garden wall to side of new house and new boundary walls to front and rear; all ancillary site works.

The reason for refusal states that it is considered that the proposed dwelling, by reason of its contemporary design and its location forward of the existing building line, would appear visually obtrusive and incongruous when viewed from

surrounding properties and the street, and would, therefore, have a negative impact on the character of the area, and, having regard to the inadequate depth of the proposed dwelling's rear garden, would be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016 – 2022, and would represent overdevelopment of the site and result in a substandard level of residential amenity for future occupants of the proposed dwelling. The proposed development would, therefore, seriously injure the residential amenities and visual amenities of the area, and would be contrary to the proper planning and sustainable development of the area.

3.3 Reference D17A/0374 – Permission refused for detached two-storey 140sqm 3-bedroom dwelling house and associated site works. The reason for refusal relates to visual obtrusion, inadequate rear garden length, overdevelopment of the site, substandard level of residential amenity for future occupants, poor precedent, and material contravention of the zoning objective in the CDP 2016-2022.

4. Planning Policy

4.1 The Dun Laoghaire-Rathdown County Development Plan 2022-2028 is the operative plan for the area.

4.2 The site is zoned 'A' with the objective 'to provide residential development and improve residential amenity while protecting the existing residential amenities'.

4.3 Section 12.2.7.5 refers to Corner/Side Garden Sites. It lists parameters to be considered in applications for permission.

5. Natural Heritage Designations

- South Dublin Bay SAC & pNHA – c. 4.4km to NE
- South Dublin Bay & River Tolka SPA – c. 4.4km to NE
- Wicklow Mountains SAC – c.6.6km to SW
- Wicklow Mountains SPA – c. 6,6km to SW.

Development, Decision and Grounds of Appeal

6. PA Decision.

6.1 By Order dated 31st July 2024, Reference D24A/0409, the Planning Authority decided to grant permission for retention subject to 2 conditions. The Planning Authority had regard to the zoning of the site, and objectives set out in the CDP, and concluded that the development to be retained would not detract from the amenities of the area, would be consistent with the provisions of the CDP, and in accordance with the proper planning and sustainable development of the area.

6.2 Condition 1 requires the development to be retained and completed in accordance with the planning permission granted under Register Reference

D21A/1025 (ABP 312698-22), other than the amendments granted on foot of this permission, and subject to Condition 2.

Condition 2 requires the ope/window at first floor level above the entrance doorway, on the front/north elevation, to be altered to be a window and panel only, reflecting the permitted design under D21A/1025. The reason is in the interest of clarity and control of development.

6.3 The Planner's Report states that the grassed land to the front of the site on the opposite side of the road is zoned 'F', and the lands behind same area zoned SN1. Sixteen 3rd party submissions were received, with 8 supporting the proposed development and the other 7 raising concerns. The issues raised are taken into consideration in the assessment of the proposed development. Permission was granted by An Bord Pleanála on appeal for the construction of a 2-bed house on the site, following earlier refusals. An Enforcement file was opened in January 2024 contending that the height of the house is greater than permitted. The development would not impact negatively on the 'F' zoned lands. Properties along this stretch of road are higher relative to the road. The separation distances maintained are sufficient to protect against serious negative impacts on existing residential and visual amenities. The impact arising from the design changes does not seriously adversely impact on residential amenities and are considered acceptable when compared with the previously permitted development. Other than the development described in the site notices, other smaller amendments have been made, including an additional window serving the kitchen, and another window serving the study, and these are considered acceptable. The window at first floor level above the main front entrance doorway includes a handle and appears like a door; this may be addressed by way of condition.

7. Third Party Appeal.

7.1 The grounds of appeal may be summarised as follows:

- The increased building height renders the structure visually obtrusive. Previous proposals were refused on grounds of visual obtrusiveness. The permission granted considered that the design took great care to ensure that the parapet height of the new dwelling would match the eaves height of No.39, by sinking the building into the ground and lowering the finished floor. The building, as constructed, sits well above the eaves of the adjoining building and results in an unsatisfactory and disharmonious relationship.
- The design, as built, is contrary to CDP policies.
- The planning history establishes that even moderate overdevelopment would negatively impact on the amenities of neighbouring residential property and visual amenities of the receiving environment.
- The development impacts on residential amenities. It is visually dominant from the back gardens of Nos. 36-38, directly west of the appeal site. It

blocks morning sunlight from kitchen and breakfast rooms, contrary to the zoning objective set for the area.

- The permitted design did not include a glazed panel in the western elevation of the box window to the front. The panel overlooks the house and private amenity space of No.38 particularly. Reference to the glazed panel is not included in the public notices. If the Board is minded to permit the proposed retention, there should be a condition requiring obscure glazing at first floor level in the west facing elevation.
- The subject development could result in an undesirable precedent, and potential loss of value of surrounding properties.
- The development represents overdevelopment on a constrained site. It is in material contravention of the CDP.

8. Responses

8.1 The Planning Authority states that the grounds of appeal do not raise any new matters, which would justify a change to the decision made.

8.2 The First Party response may be summarised as follows;

- It is not correct to state that D21A/1025 was granted only because the parapet height was reduced. There were many changes from previous proposals that led to the grant of permission. The buildings height was not mentioned as a reason for refusal in previous decisions. The proposed height for retention remains in conformity with surrounding houses, and the misalignment of eaves and parapet does not cancel out other reasons for the grant of permission.
- The new house is 2.5m lower than the ridge height of No.39. A submitted light study submitted with D18A/1045 shows that there would be no loss of light caused by the development, and that proposed building form was larger than the as-built form.
- The glazing to the bay window was not referred to in the application description and is not relevant. Any possible views are at an oblique angle to the houses behind.
- It is not clear how the proposed development for retention could impact on the value of surrounding properties. No evidence has been submitted.
- The minor changes in parapet levels have no bearing on overdevelopment, which relates to plot ratio and site coverage. The site coverage is 22.5%.
- The development forms a positive precedent for infill development.

Environmental Screening

9. EIA Screening

The proposed development is not of a Class contained in Schedule 5 and, as such, the need for screening or EIA does not arise.

10. Assessment

10.1 The proposal, as set out in the Public Notices, is for retention permission for amendments to previously approved 2-bed house (Ref: 21A/1025), to include increase in parapet height by approximately 690mm and additional internal floor area of 5sqm at ground floor and 4sqm (in addition to permitted 119sqm).

10.2 Under Reference ABP 312698, permission was granted on appeal for a two-bed detached house with floor area of 119sqm on this site. The permitted house was shown as 6100mm high, sunk at a lower level relative to the adjoining No.39, and matching the eaves height of that dwelling. The submitted drawings, on which the permission was based, show a protruding window serving a bedroom at first floor level to the front elevation, and a second window flush with the front elevation, serving a bedroom. This dwelling is constructed but the front garden area is unfinished.

10.3 There is a Third Party appeal by the occupants of Nos.36-38; the rear gardens of these houses back on to the appeal site. The grounds of appeal argue that the proposed development for retention would be visually obtrusive, and would have a negative impact on residential amenities arising from an overbearing and overshadowing impact, overlooking and loss of privacy, and depreciation of property values.

10.4 I submit that the key issues to be addressed in this appeal fall under the following headings:

- Visual impact
- Residential amenities
- Depreciation in property values
- Environmental assessments.

Visual Impact

10.5 Any assessment of visual impact should have regard to the nature and design of the permitted development under Reference ABP 312698. The proposed development is for the retention of amendments made to this permitted development during construction. In terms of visual impact, the proposal under appeal is to retain an increase in overall height of approximately 690mm, visually raising the parapet level above the eaves height of No.39. The appellants contend that the increased height makes the subject dwelling visually obtrusive and architecturally incongruous. The appeal dwelling is stepped forward of the main front elevation of No.39, as permitted

under ABP 312698, and other dwellings along the cul de sac are staggered relative to each other. Having regard to the planning history relating to the subject site, and to the established pattern of development along this part of Finsbury Park, I consider that retention of the increase in height is acceptable and does not have a detrimental impact on the visual amenities of the area.

Residential amenities

10.6 The appellants contend that the proposed development gives rise to overshadowing impact in early morning by blocking morning sun from kitchens and breakfast rooms. Having regard to the orientation of the subject dwelling relative to the rear of the appellants' properties, and the siting and layout of the development permitted under ABP 312698, I conclude that no significant overshadowing would result from the proposed development to be retained, and that the additional 690mm in height does not make the subject dwelling visually overbearing.

10.7 The appellants contend that the proposed development gives rise to overlooking, with specific reference to the protruding window at first floor level which has a side panel facing north west towards the rear of No.38. I note that the permitted development under ABP 312698 includes a protruding window at first floor level, and that the development currently under appeal does not include specific reference to the window. In these circumstances, I submit that consideration of any impacts arising from this window lie outside the scope of this appeal.

I note that there is a second window at first floor level shown serving a bedroom. The 'window,' as constructed, appears to be provided with a handle. This feature is not referred to in the description of development to be retained. I submit that any consideration of this feature lies outside the scope of this appeal.

I submit that the proposed development for retention as applied for, does not give rise to overlooking or loss of privacy.

Depreciation of property value

10.8 I submit that no convincing evidence is submitted to indicate that the proposed development for retention would give rise to any impact on property values in the vicinity.

Appropriate assessment

10.9 I have considered the proposal in light of the requirements of S177U of the Planning and Development Act 2000, as amended. The site is located in an established residential area, separated from designated European sites as detailed in Section 5 of this report. The proposed development consists of the retention of an increase in height and floor area to a permitted development. No nature conservation concerns are raised. Having regard to the nature of development, location of the site within an existing residential area, and separation from, and absence of connectivity to, any European

sites, it is concluded that no Appropriate Assessment issues arise as the proposed development for retention would not be likely to have a significant effect individually, or in combination with, other plans or projects on a European site.

Recommendation

I recommend that permission for retention be granted.

Reasons & Considerations

Having regard to the nature and scale of development proposed for retention, the planning history relating to the site, the zoning objective as set out in the Dun Laoghaire-Rathdown County Development Plan 2022-2028, and the established pattern of development in the area, it is considered that the development, subject to compliance with the following condition, is visually acceptable, does not negatively impact on residential amenities of property in the vicinity, and accords with the proper planning and sustainable development of the area.

Condition

1. The development shall be retained and completed in accordance with the plans and particulars submitted to the Planning Authority on 7th June 2024, insofar as they relate to the increase in parapet height and floor area; otherwise the development shall be retained and completed in accordance with the terms and conditions of Planning Permission under Reference ABP 312698-22.

Reason: In order to clarify the development permitted by this permission.

Des Johnson

Planning Inspector

15th November 2024.

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.