



An
Bord
Pleanála

Inspector's Report

ABP-306885-20

Development	Subdivision of house with family flat to form two independent dwellings, subdivision of rear garden space, porch extension, access to new dwelling and associated works.
Location	11, Ballyowen Road, Lucan, Co. Dublin.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0409
Applicant(s)	Dr. Matthew Lynch.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party V. Refusal
Appellant(s)	Dr. Matthew Lynch.
Observer(s)	None.
Date of Site Inspection	8 th July 2020.
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The subject site is located approx. 50m to the east of the signal controlled junction between Ballyowen Road L1042 and R136, and 500m to the south of the N4 Lucan bypass, Co. Dublin. It is within an established residential area, characterised by large semi-detached houses on generous plots.
- 1.2. The appeal site is the last in a row of 11 houses along Ballyowen Road which includes a cycle lane, grass verge and footpath. House no. 10 Ballyowen Court is located to the west and abuts the appeal site at an angle.
- 1.3. The appeal site currently accommodates a large two storey 4-bed semi-detached dwelling with single storey extension to the side. The house is currently in residential use, while the single storey extension, formerly in use as a doctors surgery, is currently vacant. The house and surgery each have own front door access from the front driveway, with both internal interconnecting doorways now blocked up.
- 1.4. The adjoining house to the east no. 10 Ballyowen Road is also in the ownership of the applicant. Both houses have a vehicular entrance and both share a hard surfaced driveway/parking area. The shared garden to the rear is accessed from the main house only, is roughly triangular in shape and has a north facing orientation.
- 1.5. The site has a stated area of 0.0348ha.

2.0 Proposed Development

- 2.1. Permission is sought for the subdivision of an existing dwelling with family flat to form two independent dwelling units.
- 2.2. To facilitate the subdivision, it is proposed to rearrange the internal layout of the main dwelling and family flat, which has a stated area of 155sqm to provide, a 4 bed and 1 bed unit.

Main Dwelling – 4 bed unit

- 2.3. At ground floor it is proposed to provide formal living area, utility, wc, with kitchen/dining/living area at ground floor. It is proposed to block up two internal doorways from the main house to the side extension, in addition to an existing side door at the rear giving access to the rear garden. Other alterations include the

replacement of double doors at the rear with a window and insertion of a new window both serving the kitchen/dining/living area. At first floor no changes are proposed to the internal layout or external elevations.

Family Flat – 1 bed unit

- 2.4. It is proposed to provide a new porch entrance to the new dwelling giving access to ground floor living/kitchen/dining area, bedroom, and separate bathroom with entrance lobby/store.
- 2.5. The proposed porch is contemporary in design, is set off the western side boundary with entrance door to the side facing east towards the main dwelling and has a stated floor area of 2.6m.
- 2.6. Both dwellings will be served by the existing shared vehicular access, which is to be narrowed to 3.6m as approved under PA Reg.Ref.SD19A/0169.
- 2.7. It is proposed to provide landscaping along the front side boundaries with adjoining houses, thereby delineating the existing front parking area with the adjoining house to the east no. 10.
- 2.8. It is proposed to subdivide the existing rear garden area, providing a separate rear garden area of 13sqm to serve the family flat.
- 2.9. The proposed development was accompanied by a planning statement prepared by Armstrong Planning.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **refuse** permission for the above described development for 1 no. reason.

1. *‘The proposal fails to provide adequate amenity space in accordance with Table 11.20 of the County Development Plan, which requires that 1-bed dwellings provide 48sqm. Thus, the proposed development contravenes Section 11.3.1 (iv) Dwelling Standards of the South Dublin County Council Development Plan 2016-2022, and the ‘RES’ zoning objectives for the area ‘to*

protect and/or improve residential amenity' and would not be in accordance with the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 20/02/2020)

Basis for planning authority decision. Includes:

- *Zoning* - 'RES' 'to protect and/or improve Residential Amenity'. Residential development is permitted in principle under zoning Objective 'RES'.
- *Residential Amenity of existing 2-storey dwelling* – It appears from the first floor layout that the house is a 4-bed, with a bathroom and ensuite (although not annotated). Table 11.20 states that houses with 4 or more beds should provide a minimum of 70sqm private amenity space. Proposal would result in approx. 50 sqm private amenity space for the dwelling, which would fall short of the standard, but given the proposal is not for a new dwelling and the original garden would also have fallen short of this standard, it is considered that reduced amenity space to the level proposed would be acceptable.
- *Residential Amenity of proposed 1-bed dwelling* – Proposal would change the use of a family flat into a 1-bed dwelling. Proposal would meet the requirements of standards as set out in 'Quality Housing for Sustainable Communities'. Proposal would provide 13sqm of private open space which is significantly less than the required standard (a shortfall of 35 sqm). Considered that there is no way that this could be improved and is unacceptable and should be refused.
- *Design* – A porch is proposed to the front of the new dwelling, this is in keeping with the existing design of the building and would have a negligible impact on the streetscape.

3.2.2. Other Technical Reports

Parks and Landscape Services/Public Realm: No objections.

Roads: No objections subject to requirements.

Water Services: No objections subject to conditions.

3.3. Prescribed Bodies

Irish Water: No objections.

3.4. Third Party Observations

None.

4.0 Planning History

P.A.Reg.Ref.SD19A/0169: Permission **granted** July 2019 for reversion of change of use from doctor's surgery to family dwelling house with family flat in the single storey reception area to the side; porch extension to the fore; amendment to existing vehicular entrance; and all associated site works, to Dr's Matthew Lynch and Rita Connolly.

Drawings submitted indicated that the ground floor of the main house and extension to side were in use as a doctors surgery, with reception and waiting area in the side extension and 4no. surgery rooms in the main house. (See drawings attached)

Condition No. 2 required the following;

- (a) that the rear garden not be subdivided,
- (b) the omission of the proposed porch,
- (c) the family flat should not have direct external access to the front, and that the internal link to the house be maintained,
- (d) the removal of the front door to the side extension,
- (e) the external door to be replaced with a window.

Condition No.3 – Restrictions on use of the family flat.

P.A.Reg.Ref.SD93A/0901: Permission **granted** for extension to existing surgery.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative development plan for the area is the South Dublin County Council Development Plan 2016-2022. The site is zoned 'RES-*To Protect and/or Improve Residential Amenity*'. Residential use is 'permitted in principle' under the zoning objective.

5.1.2. Chapter 2 refers to Housing

Section 2.3.1 refers to *Residential Design and Layout*.

Housing **Policy H11** states that '*It is the policy of the Council to promote a high quality of design and layout in new residential development to ensure a high-quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development*'.

Section 2.4.0 refers to *Residential Consolidation – Infill, Backland, Subdivision and Corner Sites*.

Housing **Policy 17** states that '*It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County*'.

H17 Objective 2 states '*To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 implementation*'.

H17 Objective 3 states '*To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation*'.

H17 Objective 5 states '*To ensure that new development in established areas does not impact negatively on the amenities or character of an area*'.

5.1.3. Chapter 11 refers to Implementation

Section 11.3.1 (iv) refers to *‘Dwelling Standards’*

Table 11.20 refers to *‘Minimum Open Space Standards for Houses’*

Type of Unit	Houses	Privat Open Space
One Bedroom	50sqm	48sqm
Four Bedroom or more	110sqm	70sqm

Table 11.21 refers to *‘Minimum Space Standards for Apartments’*

Type of Unit	Apartments	Private Open Space	Communal Open Space	Storage
One Bedroom	45sqm	5sqm	5sqm	3sqm

Section 11.3.2 (iv) specifically refers to *‘Dwelling Sub-Division And Upper Floors’*. It states that *‘Dwelling sub-division and ‘over the shop’ accommodation should accord with the relevant guidelines and standards contained in this Development Plan relating to apartments and contribute positively to the established character and amenities of the area.A separate, distinctive point of entry with an identifiable address should also be provided. Dwelling sub-divisions should preserve the established character and amenities of the area. At the discretion of the Planning Authority and subject to appropriate safeguards to protect residential amenity, reduced internal space, open space and car parking standards may be considered in exceptional circumstances for dwelling subdivisions or ‘over the shop’ accommodation, subject to compensating amenity features that maintain the residential amenities of the development and/or the area.’*

5.2. National Policy

‘Quality Housing for Sustainable Communities’ Guidelines 2007

5.3. Natural Heritage Designations

None of relevance.

5.4. EIA Screening

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, it is considered that 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. The first party appeal against the decision to refuse permission by the planning authority was lodged by Armstrong Planning on behalf of the applicant. The main grounds can be summarised as follows:

- PA have assessed the proposal against the incorrect open space standards and should have been assessed having regard to Table 11.21 of the CDP and not Table 11.20 as referenced in the reason for refusal.
- Proposed development makes adequate provision for private open space, and fully accords with Section 11.3.1 (iv) 'Dwelling Standards' of the CDP.
- Principle of residential subdivision at suitable locations is supported by Housing Policy 17 of the CDP.
- Request the Board to grant permission for the proposed subdivision.

6.2. Planning Authority Response

The planning authority confirmed its decision and considered the issues raised by the appellant have been considered in the Planner's Report.

Notes in the event of a decision to grant permission regard should be had to whether the SDCC Development Contribution Scheme (DCS) applies and whether a condition should be attached accordingly. Also notes the development maybe within the area for which supplementary DC are applicable in relation to the Kildare Route

Project Supplementary DCS. Advises conditions relating to security under Section 34(4)(g) of the Planning and Development Act 2000, as amended, should be applied in the case of residential developments of 2 or more residential units.

6.3. **Observations**

None.

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Residential Amenity
- Appropriate Assessment

7.1. **Introduction**

- 7.1.1. I would note from the outset that the side extension was originally permitted as an extension to a doctors surgery in 1993. It is reasonable to assume therefore, that the extension has been in place for approx. 25years and is clearly ancillary to the main dwelling house on site.
- 7.1.2. More recently a change of use application from doctor's surgery at ground floor to family dwelling house with family flat in the single storey reception area to the side was permitted under P.A.Reg.Ref. SD19A/0169. I can confirm from my site inspection of the main house that certain internal works indicated as part of this permission have been implemented, including the removal of internal walls, and closure of internal opes at ground floor and that the main house is currently in residential use. I can also confirm that the single storey reception area remains vacant, and that the GP practice has relocated to another premises in the area.
- 7.1.3. The proposal subject of this appeal differs from the permitted development in that it is for subdivision of the site, proving for two separate residential units. Otherwise the layout and design at ground floor is generally identical to the permitted development.

The main differences include the omission of an interconnecting doorway between the granny flat and the main house, and the subdivision of the rear garden area.

7.2. Residential Amenity

- 7.2.1. As per the South Dublin County Development Plan 2016 – 2022 the site is within an area zoned 'RES', the objective of which is 'to protect and/or improve residential amenity'. Planning policy supports development of dwellings on corner/side gardens, subject to appropriate safeguards and standards.
- 7.2.2. While the principle of infill development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development is in accordance with Housing Policy H11 and H17, dwelling standards and criteria for infill development and as set out under Sections 11.3.1(iv) and residential consolidation as set out under Sections 11.3.2(iv) of the Development Plan.
- 7.2.3. Reason for refusal no.1 refers specifically to the inadequate provision of amenity space of the unit to be subdivided from the main house, which would contravene Section 11.3.1 (iv) of the CDP. This is considered to be contrary to the 'RES' zoning objective for the area.
- 7.2.4. Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.
- 7.2.5. In my opinion, the proposed subdivision of this large site, to accommodate an additional housing unit, within an established residential area, is supported by Housing Policy H17 of the South Dublin county development plan. In particular, it allows for the consolidation and sustainable intensification of a site which is at an appropriate location and will serve to support the ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.
- 7.2.6. In relation to the provision of private amenity space the appellant asserts that the proposed development should have been assessed by the PA with reference to

open space standards as they apply to apartments as set out in Section 11.3.1 of the CDP and not as they apply to houses.

- 7.2.7. It is proposed subdivide the existing rear garden and provide 13sqm of private open space to serve the proposed 1 bed unit. This falls significantly short of the minimum private open space requirement of 48sqm for a one bedroom house, but in excess of the minimum private open space requirement of 5sqm for a one bedroom apartment as set out in section 11.3.1(iv) Table 11.20 and Table 11.21 respectively of the County Development Plan.
- 7.2.8. I would note that the area of the rear garden remaining to serve the existing house is not indicated on plans submitted but would appear to fall short of the minimum requirement of 70sqm for a 4 bedroom house. I concur with the PA however in their assessment that the original garden would have fallen short of this originally and that the current proposal is not for a new 4 bedroom dwelling.
- 7.2.9. I have had regard to the layout and scale of the proposed 1 bedroom unit which has an approximate floor area of 50sqm, and in my opinion is more akin to an apartment. I note the unit is dual aspect and benefits from a southern orientation, with direct access to the north facing rear garden.
- 7.2.10. The open plan living/kitchen/dining area also benefits from a roof light positioned on the flat roof to the rear. I am satisfied that the proposed unit will receive ample natural daylight, and not give rise to overlooking of adjoining residential properties. On balance therefore, I consider it reasonable to assess this 1 bed unit as an apartment for the purposes of private amenity space provision, and on this basis am satisfied that the provision of 13sqm meets the requirements of minimum space standards for 1 bedroom apartments as set out under Table 11.21 of the CDP.
- 7.2.11. It is proposed to provide a new porch and new porch roof to the proposed 1 bed unit. It is modest in scale with a stated floor area of 2.6m. It is also proposed to provide landscaping of the shared parking area to the front and new boundary wall to adjoining residential property no. 11 Ballyowen Road, and to narrow the existing vehicular entrance from Ballyowen Road to 3.6m.
- 7.2.12. I note that the previously permitted development by the PA omitted the porch by way of condition. I am satisfied that the contemporary design of the proposed porch and new porch roof provides an attractive elevation to the street and does not extend

forward of the building line of the existing dwelling to the west. I am also satisfied that the porch and new porch roof extension, does successfully integrate architecturally with the main dwelling and respects the character of adjacent dwellings and the area. I also note that no objections were submitted from the adjoining residential property to the west.

- 7.2.13. I note however, the lack of detail in relation to finishes and materials proposed in relation to the proposed porch and new porch roof. I would also note that the recently permitted elevations detail finishes to include tinted glazed screen, render and wood cladding.
- 7.2.14. If the Board are minded to grant permission, details of finishes should be agreed with the PA by way of a suitably worded condition.
- 7.2.15. I am also satisfied that the landscaping works, boundary delineation, and narrowing of the entrance will have a positive visual impact on the streetscape.
- 7.2.16. I am satisfied, therefore, that the proposed development is in accordance with housing policy H11, H17, complies with dwelling standards and criteria for infill development and as set out under Sections 11.3.1(iv) 11.3.2(iv) of the Development Plan and is acceptable in terms of design and residential and visual amenity.

7.3. Other Matters

- 7.3.1. *Development Contributions* – I have had regard to the Irish Rail Kildare Route Project Supplementary Development Contributions Scheme (SDCS) see map and details of scheme attached. I have examined the Section 49 scheme and am satisfied that on the basis of the creation of a separate residential unit that a special development contribution applies in this instance.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, being in an established urban area, and the proximity to the nearest European site 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

8.1. I recommend that permission be **granted** for the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the provisions of the South Dublin County Development Plan 2016-2022, and the nature, scale and design of the proposed subdivision of the residential property into two separate units, it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the current development plan for the area and would not seriously injure the residential or visual amenities of the area, or set an undesirable precedent for similar future development. The proposed development would, therefore, 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 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed porch and porch roof shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed boundary treatments at the perimeter of the site to the front and to the rear, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual and residential amenity.

- 4. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to commencement of development.

Reason: In the interest of public health.

- 5. The developer shall pay to the planning authority a financial contribution in respect of the Irish Rail Kildare Route Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

- 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, as amended. The contribution shall be paid within two months of the date of this Order 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Susan McHugh
Senior Planning Inspector

9th July 2020