

An Bord Pleanála



Inspector's Report

Reference: PL06S.246168

P.A. Reference: SD15A/0353

Title: House, vehicular entrance gate onto St. Malachy's Drive and all associated site and drainage works

Location: 46 St. Joseph's Road, Greenhills, Dublin 12

Applicant: MG Properties

Appellants: MG Properties

Observers: Peggy & Frank Corrigan
Martin, Nora & Mark Hoare

PA: South Dublin County Council

Type of Appeal: First party against refusal

Decision: Refused (two reasons)

Date of Site Visit: 18th May 2016

Inspector: Philip Davis

1. Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for a dwelling to the rear of an end of terrace building in Greenhills, South County Dublin. The Board has previously granted permission for a side house on the same property. The grounds of refusal relate to zoning policy and amenities.

2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

St. Josephs Road, Greenhills

The site is located within the suburb of Greenhills, part of the mid-20th Century south-western expansion area of Dublin City. The area is characterised by 2 storey terraced houses, almost all dating from the same period, along a network of traffic-calmed suburban feeder roads which connect to the R112 at the Walkinstown Roundabout. Most terraces are served by relatively wide rear laneways. The strikingly modern St. Pauls Church visually dominates the area. The appeal site is located on St. Malachy's Drive, at a junction with an unnamed laneway providing rear access to several dozen dwellings along the west side of St. Josephs Road and the south side of St. Malachy's Drive.

The site and environs

The appeal site, with a site area given as 0.0208 hectares, is a roughly square area of land to the rear of the end house (no. 46) of a four dwelling terrace on St. Josephs Road, at the junction with St. Malachy's Drive. It consists of a garden area (and includes what appears to be the foundation of a former garage) – with an entrance onto the rear laneway serving the houses on St. Josephs Road. The side garden of no. 46 is part of the landholding, but not part of the appeal site. The site is largely bounded with block walls.

3. Proposal

The proposed development is described on the site notice as follows:

A new two storey, two bedroom, detached house, with a new vehicular entrance gate onto St. Malachy's Drive and all associated and ancillary site and drainage works in the rear garden of the existing house.

4. **Technical Reports and other planning file correspondence**

Planning application

The planning application, with plans and specifications, engineering reports and a supporting planning report, was submitted to the planning authority on the 25th November 2015.

Internal and external reports and correspondence.

A large number of local objection letters are on file.

Water Services. No objections subject to standard conditions.

Irish Water: No objection subject to standard conditions.

Roads: There is considered to be adequate space for two cars. A new dropped kerb will be required. Standard conditions recommended.

South County Dublin Planners Report: Notes a refusal on the site for a dwelling, and a permission granted by the Board for a dwelling on the side of the house. Notes that policy is to generally look favourably on corner site proposals subject to design considerations (Policy H17). Site is in residentially zoned area. Notes that the applicant has attempted to overcome previous reasons for refusal – some of these issues are accepted, but others are not considered so. Refusal recommended for two reasons.

5. **Decision**

Permission refused for two stated reasons, summarised as follows:

1. It would be visually obtrusive as it would be out of character with the established pattern of development in the area, and contrary to Policy H17 on corner site development, and
2. It would seriously injure the amenities of adjoining properties as it is considered to be of overbearing appearance.

6. **Planning Context**

Planning permissions – appeal site

Although not on file, the planning authority in March 2015 refused a 2-story 3 bedroom detached dwelling on the site for three reasons relating to the pattern of development, amenity, and parking. (**SD15A/0008**).

Planning permissions – adjoining areas

In September 2015 the Board, on appeal, overturned the decision of the planning authority (**SD15A/0007**) to refuse permission for a dwelling to the side of no.46 (part of this landholding)(**PL06S.245028**).

Development Plan

The site is in an area zoned 'R' 'to protect and/or improve residential amenity'. Policy in respect to development in residential areas and corner sites and backland development are set out in Policies H13, H14, H15 and H17 of the 2010 to 2016 South Dublin County Council Development Plan. Relevant extracts are attached in the appendix to this report.

7. Grounds of Appeal

- It is argued that the proposed development is fully consistent with the zoning designation and policies in the Development Plan with regard to corner site developments.
- It is stated that the internal design meets the housing standard guidelines and the guidelines within the Development Plan. It is denied there would be any amenity impact on adjoining dwellings.
- With regard to reason for refusal, it is argued that it follows the building line established by the dwelling permitted by the Board (no. 46A). It is argued that it is consistent with 'numerous' infill dwellings that have been constructed in the area.
- It is submitted that it is not, as described in the reason for refusal 'visually obtrusive', and that the scale respects the nature of the surrounding area. It is denied that it is in any way overbearing.
- It is submitted that there is no overlooking or overshadowing of neighbouring properties.
- It is noted that the SDCC area is considered to have a shortage of approved residential units.
- It is denied that it can be considered overdevelopment of a restricted site – it is submitted that the garden, at 62.4m², is within development plan standards for a 2 bed dwelling.
- It is noted that in other respects – parking, drainage, etc., the proposed development meets all standards.

8. Observers

Martin, Nora & Mark Hoare of 44 St. Josephs Road

- They object to the proposed development on the grounds that it would overlook their house (they are direct neighbours), it would

represent a loss of privacy, there would be interference with access and it represents an overdevelopment of the site.

Peggy & Frank Corrigan of 2 St. Malachy's Drive

- It is argued it is essentially the same dwelling as was previously refused.
- It is argued that it is out of scale and character with the local area.
- It is submitted that it will impact on daylight reaching their home.
- It is argued that it will result in traffic problems.

A number of other observations submitted were invalidated.

9. Planning Authority's Comments

The planning authority did not comment on the details of the appeal.

10. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Principle of development**
- **Pattern of development**
- **Residential amenity**
- **Traffic and access**
- **Appropriate Assessment and EIA**
- **Other issues**

Principle of Development

The proposed development is within a residentially zoned area – the relevant policies (H13, H14, H15 and H17) are generally strongly favourable towards infill developments within existing urban areas, including side and rear developments in existing 'R' zoned areas subject to amenity and traffic considerations. Policy H15 states that backland developments should only be carried out as part of a comprehensive redevelopment.

There would be a general presumption under national policy on housing and transport to permit additional residential units within existing built up areas served with adequate infrastructure so I would consider that development plan policy is consistent with national and regional policies and objectives.

The original mid-20th Century layout of the area is a moderately dense (I would roughly estimate around 30 per hectare) suburban layout with

almost all houses being served by rear vehicular accesses. Almost all the rear garages in the vicinity are intact and it appears that none have been developed as mews residences, despite the dimensions available being relatively generous compared to areas in the inner south suburbs where such rear residential developments are far more common. There are few examples of applications available in the planning history, so it would seem that the absence of such rear developments owes more to commercial or other considerations than any planning restrictions.

The only significant type of infill development in the area since the estates were developed appear to be corner houses on the originally quite generous side gardens at road junctions along St. Joseph's Road. The permitted (PL06S.245028) (not yet built) house at the side of No.46 is one such side dwelling. There do not appear to be any precedents in the area for a rear side corner building such as that proposed, although a number of dwellings in the wider area do appear to have quite large rear outbuildings that may be in commercial use.

I note that the drawings submitted with appeal PL06S.245028 indicated the current proposed dwelling, but the Board did not comment on this aspect of that appeal when deciding to overturn the decision of the planning authority to refuse permission.

I would consider that policy/planning history is generally positive with regard to the proposed development. It would represent an intensification and densification of an area which would be in line with national policy, although I would be concerned at the precedent set for backland development in the area in the absence of a clear development plan/LAP steer with regard to the most appropriate design approach to development the rear garages of the terraces, if such is considered acceptable.

Pattern of Development

The planning authority gave the pattern of development and visual obtrusiveness as their first reason for refusal. The proposed dwelling is flat roofed and contemporary in design. The site is currently a blank wall around 2 metres in height, with a pair of metal doors on the rear lane side. With a reduced height of boundary wall, I would consider it to be a significant visual improvement over the existing boundary and corner.

The houses on St. Malachy's Road follow a clear building line. The proposed development would not follow either the existing building line of the terraces to the west, nor the existing rear building line of the back alley – but it partly follows that of the permitted end house facing St. Josephs. However, given the context, I would not consider this to be a serious visual issue for the estate. I would note that it could potentially set a precedent for mews type houses further along the lane – if this was the case then it could be problematic in the absence of

some development plan guidance in line with Policy H15. Notwithstanding this, as this proposed dwelling would have a frontage to the main road, not the lane, I do not consider that it would necessarily have this effect, nor would it set a precedent towards further backland development.

Residential amenity

The proposed dwelling would be some 9 metres from the rear of the permitted dwelling (no. 46A St. Josephs Road), about 10 metres from the rear of the existing no. 46, but just 4 metres from the single storey extension at the rear of no. 48 St. Josephs. It would be 12 metres from the facing gable wall of the nearest house on St. Malachy's Drive. The parapet level is just over 3 metres in height. As it is almost west of no's.46 and 48 it would only have an overshadowing impact on summer evenings – I would consider it unlikely that it would have any significant direct impact by way of overshadowing on these properties due to its orientation relative to the sun, although there would be perhaps some loss of ambient light to the window of the rear extension to no. 48. However, in an urban context, I do not consider that the impact would be particularly serious. Due to its orientation east of the gable of the nearest dwelling on St. Malachy's, I do not consider that there would be any significant direct loss of sunlight to relevant parts of that house and garden.

All the proposed windows, apart from one small first floor bathroom window, face towards the main road or the alley. The latter window faces south, towards the rear garden of no. 48. I would consider that any impact on privacy could be addressed by way of a condition that this window be opaque. The windows facing the alley look directly towards the front garden and side gable of no. 1 St. Malachy's Drive.

I would conclude, therefore, that the proposed development would not have an unacceptable impact on local residential amenities.

In terms of internal amenities, the dwelling would have a very minimal garden area and the layout is not ideal, especially with regard to open space. While it has sufficient open space in quantitative terms, a small L-shaped strip is hardly ideal. It is, however, well oriented for sunshine so I would consider it just about acceptable. In other respects, I consider that it is an acceptable design and layout for a small dwelling.

Traffic and parking

The proposed dwelling would have two curtilage parking spaces, with a direct access to St. Malachy's Drive (in line with development plan parking requirements). It would replace an existing access via the laneway. It would require a dropped kerb and concreting over of a section of wide grass verge. The sight-lines seem acceptable. I would note that while nearly all the houses in the area have rear garage doors, it would seem that most residents prefer to park to the front,

leaving an occasionally chaotic and haphazard parking situation on the main road – including double parking on St. Malachy's Drive. But there is sufficient space on all sides to ensure that the proposed parking arrangement would not negatively impact either local parking or road capacity or cause a hazard.

Appropriate Assessment and EIA

The appeal site is within the built up area of Dublin City. No AA Screening is on file. The nearest Natura 2000 sites are the South Dublin Bay SAC, site code 00210 and River Tolka Estuary SPA Site code 004024 and the similar designated areas on the north Dublin Bay. All these are designated for estuarine and coastal ecologies, in particular migratory birds and related species. The only pathway to pollution would be via the Poddle River to the south of the site, which discharges to the Liffey. As the site is serviced via public water and sewerage infrastructure I do not consider that there are any pathways for pollution or other impacts, so I do not consider that there is any possibility of an impact. There are no other SAC's or SPA's within 10 km of the site.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites No. 00210 or 004024, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

Due to the scale of the proposed development and absence of specific sensitive environmental receptors in the vicinity I do not consider that the issue of a requirement for EIA arises.

Other issues

The site is connected to the public sewer and water supply and there are no indications that there is a problem with capacity.

The site is not indicated on any available documentation to be subject to flooding – the Park to the south of the site is part of the floodplain of the Poddle River but there are no indications that the area has ever flooded.

A standard Section 48 Development Contribution would be required.

There are no recorded ancient monuments or protected structures within or near the vicinity of the site.

I do not consider that there are any other substantive issues arising in this appeal.

11. Conclusions and Recommendations

I conclude that the proposed development is in accordance with the zoning designation and would not seriously impact on local amenities and would otherwise be in accordance with the proper planning and sustainable development of the area.

I recommend therefore that subject to the conditions set out below, that for the following reasons and considerations planning permission for the proposed dwelling be **granted**.

REASONS AND CONSIDERATIONS

Having regard to the planning history of the area, the pattern of development of the area, the nature and design of the proposed dwelling and its design and siting in relation to neighbouring property, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the residential zoning designation and Policies H13, H14, H15 and H17 of the South Dublin County Council Development Plan 2010-2016 and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

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. The bathroom window on the first floor south-east facing elevation shall be of opaque glass only.

Reason: In the interest of protecting residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling and boundary walls 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the duplex units without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the dwelling.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

7. 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 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Philip Davis,
Inspectorate.
23rd May 2016**