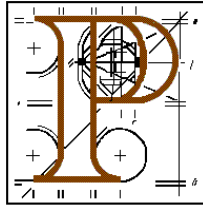


An Bord Pleanála



Inspector's Report

Development: Demolition of existing extension, construction of 2 new houses with attic conversion to side of existing house with parking to front.

Location: 326 Swords Road, Dublin 9.

Planning Application

Planning Authority:	Dublin City Council
Planning Authority Reg. Ref.:	2316/16
Applicant:	Conor Marjorem
Type of Application:	Permission
Planning Authority Decision:	Refuse Permission

Planning Appeal

Appellant: Conor Marjorem

Type of Appeals:	1 st v Refusal
Date of Site Inspection:	29 th June 2016
Inspector:	Dolores McCague

1 SITE LOCATION AND DESCRIPTION

- 1.1 The site is situated at 326 Swords Road, Dublin 9 on the east side of the Swords Road at its junction with Lorcan Road. This is a heavily trafficked signalised road junction on the R132. The site is occupied by an existing two storey semi-detached dwelling where the side garden is the proposed location of the subject development. The side or corner garden has an irregular shape, its boundary with No.1 Lorcan Road is at an angle, extending towards the junction, which results in both gardens being wider, at the front and narrowing towards the rear.
- 1.2 The existing house on site is two-storey three bedroom semi-detached dwelling with a single storey extension at the side. The site is stated to be 732 square metres in total, (i.e including the portion remaining with the existing dwelling).

2 PROPOSED DEVELOPMENT

- 2.1 As described in the application the proposed development comprises demolition of the single storey extension at the side of the dwelling and construction of two new two storey dwellings with attic conversions to the side of the existing dwelling.
- 2.2 The proposed dwellings are semi-detached and have similar internal layouts; each with a sitting room and kitchen/dining at ground floor, three bedrooms at first floor and an office in the attic lit by a rear facing high level roof window. The northernmost dwelling has a corner which is cut off and shaped to allow for a path along the boundary at a pinch point. Both dwellings have solar panels on the rear (eastern) roof. The front elevation has a single storey forward projection with a roof and with a brick finish (ground floor only). The remainder of the building is rendered to match adjoining property. The front of the block is 11.838m wide and the depth is 9.066m at first floor. The ground floor extends forward by 1.5m.

- 2.3 The side building line is shown as being in line with the front of the dwellings on Lorcan Road. The front building line is shown as being in line with the building line on Swords Road at first floor level and in front of the building line on Swords Road at ground floor level, by 1.5m.
- 2.4 The site layout shows a shared access to the existing dwelling and the proposed dwellings, with parking for 4 cars to the front and a small corner garden. The area to the rear is divided into three parts: a 100 sq m back garden for the existing dwelling, a 60 square metre back garden for one of the proposed dwellings, house A. and a small, c 17m², triangular courtyard for the other, house B; these areas to be defined by 1.8m high walls. A side garden is to be fenced off for the northern house (house B). A 1.2m wide path is to be provided between 326 Swords Road and the adjoining dwelling (house A).
- 2.5 No. 324 Swords Road is indicated as being in the same ownership but is unaffected by the proposed development.
- 2.6 The floor area of the building is given as 227.4m²: c 113m² each.

3 PLANNING AUTHORITY DECISION

3.1 The planning application was lodged on the 28th January 2016.

3.2 Technical Reports

3.3 Engineering Department Drainage Division – 22/03/16 – conditions.

3.4 Transport Infrastructure Ireland – 23/02/16 – no observations.

3.5 Planning Report 15/4/16 – zoning Z1 ‘to protect, provide and improve residential amenities’.

3.6 The planning authority decided - 15/4/2016 – to refuse planning permission for a single reason:

The proposed development by reason of a deficiency in the provision of rear private open space, below the minimum standards set out in the 2011-2017 Dublin City Development

Plan for House B, results in the overdevelopment of the site. Such development would give rise to an inadequate level of residential amenity for occupants of both the proposed and existing dwelling on the site. The proposed development therefore, would seriously injure the amenities of property in the vicinity and would be out of character with the pattern of development in the area. The proposed development is therefore contrary to Section 17.9.1 (A3) of the City Development Plan 2011-2017 and would be contrary to the proper planning and sustainable development of the area.

- 3.7 The decision was in accordance with the planning recommendation.
- 3.8 An observation on the file has been read and noted.

4 PLANNING HISTORY

3901/15 - detached 193 sq m house in the side garden of No 326, permission granted.

PL29N.231907, PA reg. ref 4412/08 - demolition of existing single storey extension to side of dwelling, construction of 2 new dwellings and the provision of vehicular access and two parking spaces, permission refused for two reasons:

- 1 It is considered that the proposed development, by reason of its projection beyond the building line on Lorcan Road and the poor quality and configuration of the open space serving unit number one, would constitute over-development of the site and would, therefore, seriously injure the amenities of the area and of property in the vicinity and be contrary to the proper planning and sustainable development of the area.
- 2 It is considered that the proposed development, by reason of the extent of hard paving to serve the entrance and parking facilities for four houses, would be visually incongruous and out of character with the pattern of development in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

The dwelling projected beyond the building line on Lorcan Road by c.5m. The paved area extended over the entire front garden of 324 and over a similar extent of 326, in total 21m width.

4005/02 - 2 two-storey semi-detached dwellings and the widening of the existing access, permission refused, reasons: substandard bedroom sizes, unacceptable garden configuration, too close to adjoining property and a number of traffic reasons.

5 GROUND OF APPEAL

5.1 Paul Sheehy Architectural & Project Management Services, has appealed to decision to refuse permission on behalf of the first party.

5.2 The grounds can be summarised as follows:

The refusal was based on deficiency in rear private open space. This is an unfair assessment as the development plan states that the private space can be either to the rear or the side of the dwelling. The proposal is in compliance with this; the total, side and rear, being substantially in excess of the minimum required.

The site is in the heart of Santry opposite the Omni Park Shopping Centre, with the benefit of being within walking distance of every amenity. It is next to a bus corridor with regular services to Dublin City Centre, Dublin Airport and numerous industrial estates.

At no. 73 Lorcan Drive there is a similar development to that proposed, a dwelling with a small courtyard to the rear and a large side garden (constructed c1992).

The development of one large house is not commercially viable; two houses would be commercially viable.

A revised layout for house B is proposed and revised drawings have been submitted for the Board's consideration, which incorporate an additional door on the eastern gable elevation. Existing screening and landscaping are also shown in annotated photographs submitted.

6 RESPONSES

6.1 Planning Authority

6.2 The Planning Authority has not responded to the grounds of appeal.

6.3 OBSERVER

6.4 An observation has been received from Mary Treacy, 1 Lorcan Road which includes:

The statement that the refusal was based on deficiency in rear private open space is an oversimplification. The critical decision was that it would constitute overdevelopment of the site.

The submission that the site is next to a bus corridor with regular services to the city centre, was a reason to refuse in 2003 that 'the access of the proposed development would create a traffic hazard and therefore be contrary to the proper planning and sustainable development of the area'. The argument is even more valid today.

The reference to commercial viability is irrelevant.

With reference to the new plans, new or altered plans should require a new application.

The coloured photographs submitted, showing the trees in the observers garden, illustrate how the site looks today, not how it would look if the appeal were to be granted.

Responding to the reference to building homes in the heart of the city, the observer states that Santry is not the heart of the city and the site is not large, and too small for two houses.

A copy of the 2003 refusal is attached.

7 POLICY CONTEXT

7.1 The **Dublin City Development Plan 2011 – 2017** is the operative plan.

7.2 Relevant provisions include:

Zoned Z1 to protect, provide and improve residential amenities.

Separation between dwellings – a distance of at least 1.5m shall be provided between dwellings for the full length of the flanks in all developments of detached, semi-detached and end of terrace houses.

17.9.6 Corner/Side Garden Sites - the development of a dwelling(s) in the side garden of existing dwellings is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a high standard of design can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the planning authority on suitable large sites.

However, some side/corner gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor quality independent dwelling, which may also compromise the quality of the original house. The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

The character of the street

Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings

Impact on the residential amenities of adjoining sites

Open space standards and refuse standards for both existing and proposed dwellings

The provision of appropriate car parking facilities, and a safe means of access to and egress from the site

The provision of landscaping and boundary treatments which are in keeping with other properties in the area

The maintenance of the front and side building lines where appropriate.

7.3 Private open space for houses is usually provided by way of private gardens to the rear or side of a house. A standard of 15sq.m of private open space per bedspace will normally be applied.

7.4 **Development Contribution Scheme 2016 - 2020**

€86.40 per square metre of residential development

8 ASSESSMENT

8.1 The main issues which arise in relation to this development are: refusal reason, Development Plan standards, overlooking, visual impact, proposed layout and appropriate assessment and the following assessment is addressed under these headings.

8.2 Refusal Reason

8.3 The first party states that the refusal was based solely on deficiency in private open space. The observer states that this is an oversimplification; that the critical decision was that it would constitute overdevelopment of the site.

8.4 Deficiency in private open space is part of the refusal reason, which also refers to overdevelopment of the site, and injury to the amenities of property in the vicinity.

8.5 **Development Plan Standards**

- 8.6 A shortfall in private open space has been referred to in the planning authority's decision to refuse permission. The first party states that the assessment did not take into consideration private open space to the side of the dwelling, and refers to the development plans acceptance of the provision of private open space to the rear or side of a house.
- 8.7 The development plan requires that 15sq.m of private open space per bedspace should be provided for a dwelling and that normally its provision will be by way of private gardens to the rear or side of a house. In the subject application there is a proposal to provide a courtyard to the rear of house B of 17 sq m area and a garden to the side and front of the house. The portion to the side of the house, to the rear of the main building line, is approx. 40 sq m in area. I note that in this case the side garden is close to a road. I also note that in addition to the open space to the side of the dwelling there is a larger garden area forward of the building line. Having regard to the amount of open space to be provided for this dwelling, I consider that the proposed development will be adequately provided with private open space.
- 8.8 The observer refers to the proposed distance between the existing dwelling and the proposed block of houses, at 1.2m, being less than the 1.5m required by the development plan. The development plan requires a minimum distance of 1.5m, however the development permitted under ref. 3901/15 shows a separation distance of 1.2m. I consider that, in the circumstances, the distance between the existing dwelling and the proposed block of houses is adequate.
- 8.9 In my opinion the development plan standards should not be a reason to refuse permission.
- 8.10 **Overlooking**
- 8.11 Rear facing windows, within the proposed development, are close to the side of the adjoining dwelling on Lorcan Road. The gable of the dwelling on Lorcan Road has a window at first floor level and a

window and French doors at ground floor level. These are visible from the public road along Lorcan Road. Two of the rear facing windows within the proposed development serve bathrooms, and one serves a bedroom which also has a window on another elevation. Any overlooking concern in relation to these windows can be addressed by obscured glazing. The other window is a single window serving a bedroom. This window is also the most distant from the adjoining dwelling, but less than 12 m away. A similar but slightly lesser degree of overlooking of the dwelling on Lorcan Road is currently experienced from two first floor bedroom windows in no. 326. A similar degree of overlooking of the dwelling on Lorcan Road would be experienced from the permitted development ref 3901/15 in which a first floor bedroom has rear facing windows (a first floor office window is to have obscured glazing).

8.12 Having regard to the planning history of the site, in my opinion overlooking should not be a reason to refuse permission.

8.13 **Visual Impact**

8.14 Overdevelopment is mentioned in the refusal reason but the only detail referred to is that of the size of the private open space, referred to above. The proposal might be considered to have an impact in terms of visual amenity or to be overbearing in its relationship with the adjoining property.

8.15 It is worth noting that the side garden of No. 1 Lorcan Road is of similar dimensions to that of the subject site with similar potential for development; any development permitted on the subject site must take this into account.

8.16 However a single dwelling has been permitted on this site and the proposed development should be compared with this permitted single dwelling.

8.17 The gable of the permitted dwelling aligns with the front building line of the dwellings on Lorcan Road and the main front building line similarly aligns with the front building line of the dwellings on Swords Road. The ground floor similarly projects forward of the

main building line by 1.5m. The external appearance is not dissimilar to that of the proposed demi-detached dwellings.

- 8.18 I note that the assessment of the single house was that the site could accommodate a house in the side garden of No. 326 and that the lean-to bay element to the front, which breaks the building line is akin to a porch and therefore acceptable, and that in general the house design reflects the semi-detached houses along the road in terms of scale, height, form, parapet levels and finishes and is compatible with house design in the area. I consider that the permitted dwelling and proposed pair of semi-detached dwellings are similar in scale, height, form, parapet levels and finishes and therefore the same conclusion can be reached in relation to the proposed dwellings.
- 8.19 In terms of the visual impact of the building block and the impact on the adjoining dwelling to the east, it appears that there is little difference between the permitted development and that now proposed.
- 8.20 In my opinion visual impact should not be a reason to refuse permission.
- 8.21 **Proposed Layout**
- 8.22 The drawings submitted with the application include a floor plan for the attic level where an office is proposed for each dwelling. An office, for use ancillary to the residential use of the dwelling, is an acceptable use of such space, however, in order to provide adequate means of escape from this floor, in the case of fire, a protected escape route is required; ie. fire doors etc (to comply with part B of the Building Regulations). The drawings do not indicate the provision of a protected escape route and it is considered that such details should be submitted for the written agreement of the planning authority prior to commencement of development. This issue did not arise in the planning authority's assessment of the application
- 8.23 The first party has submitted revised documents which, it is stated, would improve the sense of connection between the house and the

side garden; and they recommend that the Board should, by condition, so amend the development.

8.24 The observer states that new or altered plans should require a new application.

8.25 In my opinion the amendments proposed in the revised drawings do not provide any necessary improvement to the residential amenities of future residents. I consider that they should not form the basis of the Board's assessment of the appeal.

8.26 **Appropriate Assessment**

8.27 The proposed development is demolition of an existing extension, and construction of two new two storey houses plus attic accommodation to the side of an existing house with parking to the front. The site is in a built up area with public piped water services.

8.28 The nearest Natura sites are South Dublin Bay and River Tolka SPA (004024) and South Dublin Bay SAC (00210) which are in excess of c5km distance away and separated from the subject site by large developed areas in the north of Dublin City.

8.29 In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

8.30 Having regard to the nature and scale of the proposed development and 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.

9 RECOMMENDATION

In accordance with the foregoing assessment, I recommend that planning permission be granted for the following reasons and considerations and subject to the following conditions.

REASONS AND CONSIDERATIONS

It is considered that subject to the following conditions, the development as proposed, would not impact on the amenities of the area or conflict with the County Development Plan, would make efficient use of serviced residential land; and would accordingly 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 Prior to the commencement of development, drawings showing a protected means of escape from the second floor 'attic' office shall be submitted for the written agreement of the planning authority.

Reason: In the interest of safety.

- 3 The east facing first floor windows to the master bedroom of house B and the bathrooms of both houses shall be glazed in obscured glass.

Reason: In the interest of reducing overlooking of the adjoining property.

- 4 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.

- 5 The front garden area to be used for car parking shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground within the property.

Reason: In the interests of amenity, ecology and sustainable development.

- 6 External finishes shall generally match no. 326 Swords Road.

Reason: In the interests of visual amenity.

- 7 All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of clarity.

- 8 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.

- 9 Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 10 During the demolition and construction, the proposed development shall comply with British Standard 5228 'noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control. Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development

shall not constitute reasonable grounds for complaint as provided for in BS 4142 Method for rating industrial noise affecting mixed residential and industrial areas.

Reason: In order to ensure a satisfactory standard of development in the interests of residential amenity.

Dolores McCague
Inspectorate

Date

Appendix 1 Map and Photographs

Appendix 2 Extracts from the Dublin City Development Plan
2011 -2017