



An  
Bord  
Pleanála

## Inspector's Report PL06S.247943

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<b>Development</b>	Retain existing boundary wall which was part of the original garage and replace with a single storey extension to side, and internal alterations.
<b>Location</b>	54 Woodlawn Park Drive, Firhouse, Dublin 24.
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD16B/0253
<b>Applicant(s)</b>	Michael and Sara Ryan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party vs refusal
<b>Appellant(s)</b>	Michael and Sara Ryan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> April 2017
<b>Inspector</b>	Susan McHugh

## 1.0 Site Location and Description

No. 54 Woodlawn Park Drive, is a semidetached two storey dwelling, located on a corner site, on a cul de sac adjoining a pedestrian path/public right of way. The pedestrian tree lined walkway to the west provides access to Firhouse Road to the north and to a school and local centre to the south. Front boundaries comprise of low walls and pillars with plaster finish.

No. 55 Woodlawn Park Drive is located directly opposite, and No. 81 Woodlawn Park Drive is located to the rear of No. 55 to the south. The semidetached house to the side No. 53 has extended to the rear at single storey level. House No. 33 Woodlawn Park Drive located to the rear of the appeal site, has extended to the side at single storey but with a set back from the western boundary.

## 2.0 Proposed Development

Permission is sought for the removal of an existing garden shed to the rear, retention of the existing boundary wall (which forms part of the original garage extension), and to replace with a single storey extension to the side and front to accommodate an extended kitchen/living area, study, shower room and front porch with external finishes to match existing and general internal alterations to the existing house.

The overall area of the extension is stated as being 32.56sq.m. The proposed extension will have a hipped roof to side and front, with selected concrete roof tiles to match existing. It is proposed to construct the new extension inside the existing western boundary wall to the pedestrian path/public right of way which has a height of 2.4m. The proposed new side wall and parapet will have a height of 3.1m. It is proposed to tie the existing boundary wall into the new structure.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for one reason which states; *'The proposed extension would be situated over an existing public sewer, which would be contrary with the Great Dublin Regional Code of Practice for Drainage Works, Section 6 : Building Close to a Public Sewer,' which states that 'no building may be constructed over the line of a public sewer; as per the Public Health Act 1878' and would be prejudicial to public health, would be contrary to policy requirements of the South Dublin County Council Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.'*

### 3.2. Planning Authority Reports

3.2.1. The **Planner's** report dated **12/09/2016** notes:

- That the development of an extension is permitted in principle, and that the existing residential amenity of adjacent properties would not be negatively impacted upon by way of overlooking or overshadowing.
- Proposed extension would be in keeping with the design prominent in the area, and that the overall height of the extension and the wall to be retained is appropriate at this location.
- Recommends that the applicant submit details and proposals which clearly demonstrate how the proposed works will not have a negative impact on the trees in the tree lined walkway located along the western boundary of the site.
- Recommends further information in accordance with the report of the Environmental Services Department in relation to the location of the sewer.

The **2<sup>nd</sup> report** dated **10/01/17** following FI considers that the applicant has not satisfactorily addressed the issues raised and recommends a refusal.

### 3.2.2. Other Technical Reports

- **Surface Water Drainage-** The first report 31/08/2016 had concerns that the proposed extension was in close proximity to a 750mm diameter public surface water sewer, and that public drainage infrastructure must be protected in compliance with GDSDS. Further information was sought regarding the exact location of the sewer and distance between the proposed extension and sewer, details of all foundations for the proposed extension to extend to a depth greater than or equal to the invert level of the sewer, demonstrate that no load transfer would occur between the proposed extension and the sewer, and that any damage to the sewer would be rectified at the Developers expense.

Following receipt of further information, the second report dated 13/01/2017 notes following a site inspection that the public sewer runs under part of the western boundary wall and as such the works do not comply with the Greater Dublin Regional Code of Practice for Drainage Works, Section 6: Building Close to a Public Sewer. A refusal of permission is recommended.

- **Parks and Landscape Services – Public Realm** – No objections.

### 3.3. Prescribed Bodies

**Irish Water** – No Objections.

### 3.4. Third Party Observations

None.

## 4.0 Planning History

There are no relevant applications associated with the subject site.

**PA Reg. Ref. S00A/0221, ABP ref. PL06S.120148** – Permission granted in January 2001, for a house to side of 81 Woodlawn Park Drive, Firhouse. Condition no.1 referenced amended drawings entitled 'Foundation Details' (received by An Bord Pleanala during the course of the appeal) which the development was required to be

in accordance with. No. 81 is to the south of the appeal site and it also 'sides' onto the pedestrian walkway.

## 5.0 Policy Context

### 5.1. Development Plan

Under the County Development Plan 2016-2022, the site is zoned '**RES: To protect and/or improve residential amenity**'.

Chapter 2 refers to housing and Chapter 11 refers to implementation.

Section 11.6.1 of Chapter 11 considers Water Management. Section 11.6.1 (ii) Surface Water states: *Development proposals should provide suitable drainage measures in compliance with the Greater Dublin Strategic Drainage Study (GSDSDS) and Greater Dublin Regional Code of Practice for Drainage Works.*

### 5.2. Natural Heritage Designations

None of relevance.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal against the decision to refuse permission by the planning authority has been lodged by the applicants. In summary, it states:

- The original housing development was constructed in 1975 approx. which included no 54 Woodlawn Park Drive, which included a double garage with a tiled roof to the side.
- The main public sewerage for the area as shown on the South Dublin drainage map shows the drainage system is located in the centre of the public pedestrian walkway, but that on recent inspection it was found that the main drain passes partially through the boundary wall.

- The existing sewerage system will not be affected by the proposed development as the existing boundary wall will be retained, and as such the existing trees and grass area will be protected.
- The Council have stated that the proposed extension would be situated over an existing public sewer which would be contrary to the Greater Dublin Regional Code of Practice for Drainage Works, Section 6, 'Building close to a public sewer'.
- Number 55 Woodlawn Park Drive, located directly opposite, was the subject of a grant of planning permission for a two storey structure which bounds up to the side boundary line and above the public drains (decision order no. P1867/74 dated 12/5/74). Therefore, the applicant considers that the Council have set a precedent for building up to the side boundary line and above the public drains.
- Number 81 Woodlawn Park Drive located behind Number 55 was also granted planning permission on appeal to An Bord Pleanala. This also shows precedent in allowing for building works up to the boundary line and above the public drains (PA Ref. no. S00A/0221, ABP Ref. 06S.120148).

## 6.2. **Planning Authority Response**

The planning authority confirmed its decision and considered that the issues raised by the appellant have been considered in the planner's report.

## 6.3. **Observations**

None.

## 7.0 **Assessment**

- 7.1. The main issue in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Separation Distance from existing surface water sewer
- Appropriate Assessment

## 7.2. **Separation Distance from existing surface water sewer**

With regard to the separation distance from the existing surface water sewer, the point made by the applicant is that, by reason of the planning permission granted in 1974 for the extensions to the rear of house no. 55 and the planning permission granted on appeal to the Board in 2001 for a house to the side of house no. 81, a precedent has been set. However, I do not consider that the decision on the current proposal should be solely determined by reference to this precedent, without any element of discretion, particularly in that the grant of permissions are forty-three and sixteen years old respectively, and planning considerations have changed over that time. I do not consider that these permissions set a constructive precedent particularly where there is a public health issue.

The applicant refers to the original house being constructed in 1975 approx. which included a double garage with a tiled roof to the side of the dwelling. It would appear that this former garage has been removed. Currently, as indicated on the drawings submitted with the application, all that remains is the front elevation to the former garage. This has been modified to comprise a pedestrian door and garage door. I can confirm from inspection of the site that the area to the rear of this single storey elevation is open and is used for storage.

I note that Section 6 of the Greater Dublin Regional Code of Practice for Drainage Works deals with building close to a public sewer. It states that in order to protect the public drainage infrastructure on or adjacent to a site, no building may be constructed over the line of a public sewer, as per the Public Health Act 1978 and the Local Sanitary Authority requires a minimum clear distance of three meters to be maintained between sewers and all structures on site including basement and foundations. This minimum clear distance will be increased if the sewer is greater than 3m deep or is greater than 375mm in diameter.

It is noted that Irish Water had no objection. However, the Council's Environmental Services Department identified that the public sewer in the pedestrian laneway to the west of the site runs under part of the western boundary wall of the appeal site. In compliance with the Code of Practice a minimum clear distance of three meters is to be maintained between sewers and all structures on site.

The applicant in their response to the further information noted that the sewer is located under part of the existing foundation and boundary structure with a manhole located to the left side of the boundary in the front garden. As such it is proposed to retain the original existing drainage system, foundation and boundary structure and construct an internal timber framed structure to reduce the weight of the new structure. It is noted that while the applicant had the opportunity in their appeal to address this issue, they did not dispute the location of the sewer or modify the proposed development to allow a greater separation distance between the proposed development and the existing sewer in order to comply with the Code of Practice. It is also noted that the proposed sewer is 750mm in diameter and in accordance with the Code of Practice would require an even greater separation distance.

I would therefore concur with the decision of the planning authority to refuse permission.

### **7.3. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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. Having regard to the above, I recommend that permission be refused for this development for the reasons and considerations set out below.



## 9.0 Reasons and Considerations

1. The proposed extension, is located in part over an existing 750mm diameter public surface water sewer, and therefore it is considered that the site does not have the capacity to accommodate an extension to the side of the existing dwelling with satisfactory separation distances to the surface water sewer. As a result, the proposed development would set an undesirable precedent, would be prejudicial to public health, and would be contrary to the proper planning and sustainable development of the area.

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Susan McHugh  
Planning Inspector

24<sup>th</sup> April 2017