



An
Bord
Pleanála

Inspector's Report ABP-300160-17

Development	Demolition of shed, construction of house, revised parking, boundary wall and associated site works
Location	95 Sarsfield Park, Lucan, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD17A/0321
Applicant(s)	Anthony Morgan
Type of Application	Permission
Planning Authority Decision	Grant w. conditions
Type of Appeal	Third Party
Appellant(s)	Joseph & Noreen Harrington
Observer(s)	None
Date of Site Inspection	25/01/18
Inspector	Ciara Kellett

1.0 Site Location and Description

- 1.1. The appeal site is located in the side garden of No.95 Sarsfield Park, Lucan, Co. Dublin. Sarsfield Park is c.375m from the village centre and c.200m south of the River Liffey. It is accessed from, and south of, Chapel Hill.
- 1.2. Sarsfield Park is a mature well-established residential housing development, comprising of two storey blocks of terraced dwellings. The terraces generally comprise of four dwellings. No.95 is the fourth dwelling lying to the east of a block.
- 1.3. No.95 has a large corner garden which fronts on to the road to the north and east. Two terrace blocks lie to the east, No's. 119 to 126B. The appellant lives in No.122.
- 1.4. The boundary of No.95 comprises a low rendered wall with a redbrick capping. A gate provides access to the driveway of No.95. The gate is located almost at the corner of the site.
- 1.5. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. It is proposed to demolish a shed to the side of No.95, noted as being 20sq.m in area, and to construct a detached 2 storey 2 bedroomed dwelling measuring 91.59sq.m with an overall height of 7.92m. It is proposed to revise the existing car parking area to serve both dwellings and to construct a rear boundary wall measuring 1.8m in height between both dwellings.
- 2.2. The roofline will match the existing terrace as will the roof materials. UPVC windows are proposed, as well as a dash render finish on the external walls to match the existing street context.
- 2.3. At ground level it is proposed to have an open plan living/kitchen area which has a side annex which runs parallel to the road. At first floor there are two bedrooms and a bathroom.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission subject to 12 conditions.
- 3.1.2. Condition no.1 states that the relocation of the existing vehicular entrance was not advertised in public notices and therefore does not form part of the planning application. Condition no.2 requires that the first floor window on the rear elevation serving bedroom no.2 to be relocated to the side/eastern elevation, and the first floor bathroom window is to be fitted with obscure glazing. Condition no.4 states that no changes to the existing vehicular entrance shall be carried out and the existing side boundary wall shall be retained. This condition also requires that a maximum of 3 car parking spaces shall be provided in the shared front garden.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Considers main issues relate to zoning and Council policy, visual impact and building finishes, residential amenity, vehicular access, services and drainage.
- Notes site is located in zoning 'RES' and that dwellings are permitted in principle.
- Considers previous reasons for refusal have been overcome as car parking is provided, required private amenity space is met, and building lines match existing.
- Considers it appropriate to relocate the proposed rear bedroom window to the side to avoid any potential for overlooking or loss of privacy to dwellings to the rear.
- Notes minimum size requirements of Development Plan for floor area and open space are 80sq.m and 55sq.m respectively for a 2 bedroomed dwelling. Notes these standards are met with the proposal.
- Notes that the existing dwelling at no.95 has a rear extension which results in a rear garden area of c.30sq.m. Considers that this is acceptable having regard to the Exempted Development Regulations which require a minimum amenity space of 25sq.m for an extended dwelling.

- Notes drawing indicates the vehicular entrance is to be moved but this was not advertised in the public notices and is therefore not considered to be part of the application.
- Considers a total of 3 car parking spaces to be adequate for both dwellings having regard to its location close to Lucan Village. Considers it appropriate that the existing location of the entrance should remain as is, and that 3 spaces should be provided in the shared front garden.
- Recommends permission should be granted subject to conditions.

The decision was in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Surface Water Drainage:** No objection subject to conditions
- **Roads Section:** No objection subject to conditions relating to the four car parking spaces – considers that spaces closest to road and existing house will make parking difficult. Recommends a revised layout showing a boundary wall between both dwellings and showing two spaces for new dwelling.

3.3. Prescribed Bodies

- **Irish Water:** No objection subject to conditions
- **National Monuments Service:** No report
- **Dept. of Arts Heritage:** No report
- **Arts Council:** No report
- **Fáilte Ireland:** No report
- **Heritage Council:** No report
- **An Taisce:** Notes planning application should be assessed with regard to amenity of the area and provisions of the plan.

3.4. Third Party Observations

One submission was received by the appellant at No.122 Sarsfield Park which was signed by a number of neighbours. In summary it states:

- Object on the basis of reduced privacy for a number of residents.
- Unsuitability of road for construction traffic.
- Visual impact.
- Previous application was refused permission.

4.0 Planning History

- **ABP Ref: PL06S.214544, SDCC Reg. Ref. SD05A/0613:** The Board decided to refuse permission in April 2006 for the construction of a 2 storey, 3 bedroomed house with loft conversion, new boundary walls and pillars. The Board considered that the development by reason of its design and layout would result in inadequate separation distances from adjoining houses, insufficient rear garden private open space and inadequate off-street parking.
- **Reg. Ref. SD04A/0345:** Invalid.

5.0 Policy Context

5.1. South Dublin County Council Development Plan 2016 - 2022

- 5.1.1. Under the County Development Plan 2016 – 2022, the site is zoned '**RES: To protect and/or improve residential amenity**'.
- 5.1.2. Section 2.4.0 of the Development Plan considers 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*'.
- 5.1.3. **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*'.

- 5.1.4. **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*'.
- 5.1.5. **H17 Objective 5** states '*To ensure that new development in established areas does not impact negatively on the amenities or character of an area*'.
- 5.1.6. Section 11.3.2 (ii) specifically refers to Corner/Side Garden sites. It states (inter alia):
The site should be of sufficient size to accommodate an additional dwelling(s) and an appropriate set back should be maintained from adjacent dwellings; The dwelling(s) should generally be designed and sited to match the building line and respond to the roof profile of adjoining dwellings; The architectural language of the development (including boundary treatments) should respond to the character of adjacent dwellings and create a sense of harmony. Contemporary and innovative proposals that respond to the local context are encouraged, particularly on larger sites which can accommodate multiple dwellings; Where proposed buildings project forward of the prevailing building line or height, transitional elements should be incorporated into the design to promote a sense of integration with adjoining buildings; and, Corner development should provide a dual frontage in order to avoid blank facades and maximise surveillance of the public domain.

5.2. **Natural Heritage Designations**

The Rye Water Valley/Carlton SAC (Site Code 001398) is c.3.2km to the west.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A third party appeal has been lodged by the owner of No.122 Sarsfield Park. A mark-up of the Planning Authority's documents and photos, as well as an appeal letter were submitted. In summary, it states:

- Consider plans do not truthfully reflect the eventual positioning of the new build. 95A will be a detached house and visually will not match the terrace.

- There is insufficient space on the small corner site for a dwelling which appears to have a sunroom on the side. 95A will be built at an angle leaving little or no space at the boundary wall. The rear garden would not have the 30sq.m required for amenity space as 95 Sarsfield Park has a large extension to the rear and a side garden would seem an impossibility.
- The conditions do not take into account the impact this house will have on the immediate area.
- Condition no.1 states that the relocation of the existing vehicular entrance was not advertised – this should have been advertised to give the public an opportunity to form an opinion on the safety of the site.
- Condition no. 2A states that the first floor bedroom on the rear elevation should be located to the east. This impacts on privacy – photos included.
- Condition no.3 states the front building line shall match the existing – consider site too small as plans submitted do not show the site as a corner site. No house in the estate has to look out at the gable end of another house. Position of house would impact on amenity spaces and would be out of line with the terrace and come within feet of the boundary wall facing their house, potentially reducing light.
- Condition no.4 states that no change is to be made to the vehicular entrance – gates are on a corner of a narrow road. More cars entering and exiting could potentially endanger pedestrians.
- Condition no.4C states no changes can be carried out to entrance – can't see how additional parking can be created and not impact on safety. Would like to see Roads Report.

6.2. Applicant Response

The applicant comments on the decision from the Planning Authority and the conditions therein. Each item of the appeal is addressed and is summarised below.

- Considers previous reason for refusal have been addressed in subject application.

- Visual aspect of proposal is supported by the Planning Authority – dwelling has been designed to maintain the character of the estate. Building line is conditioned by the Planning Authority.
- Insufficient space – Planning Authority have assessed the proposal to be fully in compliance with section 11.3.2(ii) of the Plan and garden areas to be acceptable.
- Proposal is feasible and complies with all standards for corner development, and consider that the dwelling would contribute to the streetscape at this corner location.
- There is no change to vehicular entrance – three parking spaces is considered adequate.
- Relocation of bedroom window from rear to side is in full compliance with the Development Plan standards. Separation distances have been achieved.
- With respect to the gable view, the design is in accordance with section 11.3.2(ii) of the Plan which requires that corner development should provide a dual frontage to avoid blank facades. The design incorporates a one storey element and breaks the appearance of a standard gable wall.
- The two storey section is over 20m from the nearest house.
- Roads Section had no objections. Safety concerns are unfounded.
- Concludes that the Planning Authority are in agreement that a detached house can be accommodated on the site.
- A new drawing accompanies the response indicating the revised location of the bedroom window on the west façade.

6.3. Planning Authority Response

The Planning Authority responded by confirming their decision and consider that the issues raised have been covered in the Planner's Report.

6.4. Further Responses

6.4.1. The appellant was provided an opportunity to comment on the applicant's response to the appeal. A letter and photographs were submitted. In summary, it states:

- Restate concerns with the accuracy of the drawings. Drawings do not truthfully show how a detached house will impact visually on the road.
- Refers to extension to no.118 which has a clear and unobstructed view of the road when exiting and entering.
- A number of houses are for sale in the estate and this house will not improve residential amenity as required by the zoning, as extra cars will make it dangerous for people. Consider proposal materially contravenes zoning objective.
- Consider previous refusal should stand. Proposal would set an undesirable precedent.
- Notes applicant quotes from Planner's report that past reasons for refusal have been substantially overcome – wish to see them wholly overcome.
- Concerned that Roads Department report is missing. Have seen Roads Department Planning Report. Query recommended conditions of the Roads Department to erect a boundary wall to the front of the proposal. Cannot see how a boundary wall can be erected if the gate is staying in place.
- Address each condition and restate concerns with parking, amenity space, materials to be used,

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. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Accuracy of drawings and design of proposal
- Vehicular gate and car parking
- Residential Amenities

- Appropriate Assessment

7.1. Accuracy of drawings and Design of Proposal

- 7.1.1. The appellants are of the opinion that the plans do not truthfully reflect the eventual positioning of the new build. They are also of the opinion that the plans give the impression that the new dwelling would continue to match the existing building line and respond to the roof profile, but note that it will be a detached house and visually will not match the terrace.
- 7.1.2. In the appellant's further response to the applicant's response to the appeal, the appellants state that no ordnance survey drawings have been submitted as part of the appeal response, and the drawings do not accurately reflect the site. An Ordnance Survey drawing was submitted with the application in the first instance, and I am satisfied that this accurately reflects the site area.
- 7.1.3. Reviewing the drawings Ref.pl_009 and pl_011, I consider that the proposed dwelling matches the roof profile of the existing terrace and proposes to use the exact same materials as the existing terrace. I accept that the dwelling will be detached but from my site visit in and around Sarsfield Park, I noted a number of detached dwellings built out in a similar manner, on corner garden sites. Examples viewed included 42A, 43A and 55A Sarsfield Park. I do not consider that a detached dwelling in this location will create a negative visual impact. The existing examples within the housing estate integrate with the terraces and do not introduce a discordant element into the streetscape.
- 7.1.4. With respect to the appellant's assertion that the plans submitted do not truthfully reflect the eventual positioning of the new build, I am satisfied that the first condition of a normal planning permission requires that the development shall be carried out and completed in accordance with the plans and particulars lodged with the application, save for any changes contained within other conditions. This condition is appended to most normal permissions. If the development is not built in accordance with Condition no.1, then the development will be in breach of planning permission.
- 7.1.5. The appellants consider that there is insufficient space on the corner site. I am satisfied that with the demolition of the shed and the existing wall, there will be more than sufficient room for the proposal. The dwelling side annex is proposed at an

angle to the existing dwelling to reflect the angle of, and run parallel to, the boundary wall. The drawings indicate that there is c.2.5m between the angled living/dining area façade and the boundary wall. While the annex will directly face the dwellings on the far side of the road (where the appellant resides) I am satisfied that there is c.19m between opposing windows. I note the 22m distance figure is considered to be the figure that should be met between opposing above ground floor windows (Guidelines for Planning Authorities: Sustainable Residential Development in Urban Areas). I am satisfied that a distance of c.19m at ground floor will not give rise to issues of overlooking or loss of privacy.

7.1.6. The appellants note that the remaining rear garden of No.95 will not have the required 30sq.m for amenity space to the rear of the dwelling. I agree that the remaining garden area of the existing dwelling will be significantly reduced but note that there is a large extension to the rear of no.95. Furthermore, I agree with the Planning Authority with respect to comments on the exemption provisions in the Planning and Development Regulations. The Regulations state that an extension of up to 40sq.m can be built in the rear garden of a dwelling without the need for planning permission, subject to a number of conditions and limitations. One of the conditions and limitations includes '*The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres*'. Thus, I am satisfied that the remaining rear garden area, in this particular instance, is acceptable.

7.1.7. In conclusion, I am satisfied that the design of the proposal is in accordance with Section 11.3.2(ii) of the Development Plan. The site is of a sufficient size to accommodate an additional dwelling, it is designed to match the building line and responds to the roof profile of adjacent dwellings, as well as responding to the character of adjacent dwellings.

7.2. Vehicular Entrance and Car Parking

7.2.1. Condition no.1 states that the relocation of the existing entrance was not specifically mentioned in the public notices and therefore is not included as part of the planning permission.

- 7.2.2. The appellants state that the relocation should have been advertised so residents could have had the opportunity to comment. The Planning Authority agreed with the appellants and specifically excluded works involving the relocation of the vehicular gate. The drawings indicate the intention to move the entrance to the east slightly, more centred between the existing and proposed new dwelling, but there are no exact dimensions on the drawings.
- 7.2.3. The Roads Section raised concerns with the parking proposal and queried the ease of access to two of the parking spaces. They recommended alterations to the parking layout including the erection of a front boundary wall by way of condition. Three parking spaces in a shared front garden were included as part of the decision to grant. No details have been provided with respect to where those spaces are to be located in the front garden.
- 7.2.4. The appellants, in the further response, query how the erection of a boundary wall in accordance with the Roads Department recommendations, can be built without moving the gate. I note that the Planner did not include this as a condition, and therefore the boundary wall to the front of the dwellings is not included as part of the Planning Authority's notification of decision to grant permission. The appellants also state that they cannot find a Roads report and query if the Board has all the documentation. The Roads Department report is included as part of the file and is entitled 'Roads Department Planning Report'.
- 7.2.5. I am satisfied that three spaces are adequate having regard to the proximity of the dwelling to Lucan Village and public transport. Two spaces should be provided for the existing dwelling and one for the proposed. I also note that there are dedicated standalone parking areas adjacent to the green space to the west and to the south of the terrace. I consider a condition should be appended, should the Board consider granting permission, requiring that the parking layout for three car park spaces is agreed with the Planning Authority, but I am satisfied that three spaces in this instance are acceptable.
- 7.2.6. The appellants have concerns for pedestrian safety with the fact that the entrance is on a corner. While there were no cars parked in the driveway at the time of my visit, it is clear that the existing driveway can already accommodate at least two cars – the site has one of the longest front gardens in the estate. Having regard to the fact that

the entrance is not moving, I am satisfied that while there will be an addition of a car parking space, the small number of additional traffic movements is not a reason for refusal in this case.

7.3. Residential Amenities

- 7.3.1. The appellants express concerns with respect to loss of daylight and loss of privacy. Particular concern is expressed having regard to the fact that the bedroom window was moved to the eastern side of the new dwelling by condition.
- 7.3.2. I note that in the applicant's response to the appeal, a new drawing is submitted indicating the bedroom window on the western façade.
- 7.3.3. I am satisfied that the relocation of the bedroom window to the eastern façade is acceptable. From the eastern façade of the new dwelling to the dwellings opposite, there is at least 22m distance at first floor level, as required by the Sustainable Residential Density Guidelines. I do not agree with the revised proposal offered by the applicant to insert a window on the western façade. This would not provide sufficient amenity to future occupants of the new dwelling, and I consider a condition requiring the bedroom window to be inserted on the eastern gable should be appended, should the Board consider granting permission.
- 7.3.4. Having regard to the distance between the proposed and existing dwellings, I am satisfied that the new dwelling would not have a seriously negative impact on the amenities of the existing residents. While I accept that the view from the appellant's dwelling will be altered, the view is still that of a suburban streetscape and I do not accept that it will cause a seriously negative impact on the visual amenities of existing residents.

7.4. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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 planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands in the current South Dublin County Development Plan 2016-2022, to the compliance with the development standards for dwellings in side gardens, to the compliance with dwelling size and private open space standards of the Development Plan and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual 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.

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. The proposed development shall be amended as follows:
 - (a) The first floor bedroom window on the rear elevation serving Bedroom No.2 shall be relocated to the eastern elevation.
 - (b) The first floor bathroom window on the rear elevation shall be permanently fitted with obscure glazing.

(c) A maximum of three car parking spaces shall be provided in the front shared garden area of the existing and proposed dwelling.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. 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 house 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 new and existing dwelling.

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

Reason: In the interest of visual amenity.

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.

.Ciara Kellett
Inspectorate

23rd February 2018