



An
Bord
Pleanála

Inspector's Report ABP-300260-17

Development	Single storey dwelling house, demolish garage and associated site works.
Location	23 Marian Park, Rathfarnham, Dublin 14.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD17A/0306.
Applicant(s)	Colin Redmond.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party V Decision.
Appellant(s)	Colin Redmond.
Observer(s)	None.
Date of Site Inspection	16 th February 2018.
Inspector	Susan McHugh.

1.0 Site Location and Description

- 1.1. Marian Park is located in a suburban area to the south of Dublin City, approx. 0.4km south of Rathfarnham shopping centre and 0.5km north of Ballyroan neighbourhood centre. The area generally is characterised by well established, medium density, two storey, semi-detached suburban type housing.
- 1.2. The appeal site has an area of 0.522Ha and is located to the side and rear of no. 23 Marian Park, an existing two storey detached house with a hipped roof. Houses along Marian Park are characterised by having the front entrance door along the gable and include single storey flat roofed garages to the side, many of which have been converted and or extended. The existing garage to no. 23 Marian Park is positioned on the western side facing the side garage of no. 21 Marian Park.
- 1.3. Houses along Marian Park include long and relatively narrow rear gardens. The existing garden of the appeal site includes large mature trees with dense hedgerows defining the boundaries to the east and west, and a line of trees bounding the properties to the north.
- 1.4. The existing house similar to the other houses on the road includes a driveway and there is room for on street parking.
- 1.5. The rear gardens of no. 34 and 36 Marion Grove, a pair of semi-detached houses to the east are located perpendicular to the rear side garden boundary wall of no. 23 Marian Park. The rear gardens of no. 38 Marian Grove and 25 Marian Park, a pair of semi-detached houses located to the east and at an angle to the junction, both taper towards the rear garden of the appeal site also.
- 1.6. The Charleville Square residential development is located to the north which comprises a mix of apartments, terraced semi-detached and detached two storey houses. Houses no. 42 and 40 both detached houses are located directly north of the appeal site.

2.0 Proposed Development

- 2.1. Permission is sought for the subdivision of the site, demolition of the existing garage to the side, and construction of a single storey one-bedroom dwelling in the rear garden of the existing two storey house at no. 23 Marian Park.

- 2.2. The area of the proposed house is stated as being 91sq.m. It is roughly 'L' shaped in plan. The eastern elevation, which is 12m in length, would be set off the side boundary by 0.8m. The northern elevation which is 8.5m in length is set off the northern boundary by approx. 0.7m. The western elevation is set off the western boundary by approx. 0.7m increasing to 1.7m.
- 2.3. The entrance door is located on the western side elevation while the southern elevation is glazed with double doors to the living area which gives direct access to the outdoor amenity space.
- 2.4. The single storey house is contemporary in design, with a flat roof and overall height of 3m. Finishes comprise cedar cladding.
- 2.5. The vehicular access proposed is from the existing driveway serving no. 23 Marian Park. One parking space appears to be proposed along the gable of the existing house.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the following reasons:

1. *The proposed single storey dwelling does not comply with Housing (H) Policy 17 Objective 2 of the South Dublin County Development Plan 2016-2022 as the site does not consist of a large site which would facilitate backland type development and does not comply with the safeguards set out in Section 11.3.2 (iii) Backland Development of the Development Plan in that the application is not guided by a site analysis process in regard to the scale, siting and layout of development and the development represents piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area. Thus, the proposed development would seriously injure the amenities of property in the vicinity and would not be in accordance with the proper planning and sustainable development of the area.*
2. *By virtue of its scale and depth of 12m along the eastern neighbouring boundary and width of 8.5m along the northern neighbouring boundary at a*

height of 3m the proposed development would have a significant overbearing impact on the residential amenity of dwellings to the east and north. The development would seriously injure the amenities of property in the vicinity and would not be in accordance with the proper planning and sustainable development of the area.

3. *The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 24 October 2017)

Basis for planning authority decision.

Include:

Reference to; Internal floor area and private amenity space to serve the proposed and existing house complies with the relevant quantitative standards; non-compliance with Policy 17 Objective 2 of the County Development Plan with respect to the site area or Section 11.3.2 (iii) Backland Development of the plan; in relation to design it would have a significant overbearing impact on the residential amenities of dwellings to the east and north and should be refused; the applicant may wish to consider a family flat; no parking spaces have been provided and should be refused.

3.2.2. Other Technical Reports

Water Services: no objection subject to standard conditions.

Roads Department: no objection.

3.3. Prescribed Bodies

Irish Water: no objection subject to standard conditions.

3.4. Third Party Observations

None.

4.0 Planning History

No relevant history identified.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016 – 2022

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

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*'.

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*'.

Chapter 11 states with respect to Dwelling Standards that the minimum space for one bedroom houses is 50sq.m. The required private open space for a one-bedroom house is 48sqm, and 60sqm for a three-bedroom house.

Section 11.3.2 (i) specifically refers to Infill Development. It states (inter alia):

Development on infill sites should meet the following criteria: Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual; A site analysis that addresses the scale, siting and layout of new development taking account of the local context should accompany all proposals for infill development. On smaller sites of approximately 0.5 hectares or less a degree of architectural integration with the surrounding built form will be required, through density, features such as roof forms, fenestration patterns and materials and finishes. Larger sites will have more flexibility to define an independent character; Significant site features, such as boundary treatments, pillars, gateways and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street.

Section 11.3.2 (iii) specifically refers to Backland Development. It states that the design of development on backland sites should meet the criteria for infill development in addition to the following criteria: *Be guided by a site analysis process in regard to the scale, siting and layout of development; avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area; development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking; access for pedestrians and vehicles should be clearly legible and, where appropriate, promote mid-block connectivity.*

5.2. Natural Heritage Designations

5.2.1. There are no designated European sites within the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal against the decision to refuse permission by the planning authority has been lodged by Patrycja Rogala on behalf of the applicant. It includes revised drawings showing a reduction in height of the proposed house and the

proposed flat roof finished with a sedum green roof. It also includes aerial views of the of the existing appeal site in its context and an overshadowing study.

6.1.2. The main grounds of the appeal can be summarised as follows:

Reason for Refusal No. 1

- Contends that the proposed development does comply with Section 11.3.2 of the County Development Plan, with a site area of 522sqm, a building footprint of 91 sqm, and an overall height of 2.775m, will blend into the location perfectly, and in no way adversely impacts on the character of the area.

Reason for Refusal No. 2

- Submits that the existing site is overgrown due to the applicants' circumstances, and that there are existing mature trees blocking light to the neighbouring rear gardens to the east and northern boundaries.
- Notes that the neighbours are supportive of the development as it would significantly enhance their rear gardens.
- Contests that the overshadowing study carried out demonstrates that there will be no over shadowing or overbearing impact on the residential amenity of dwellings to the East and North.
- Notes that the reduction to the height of the development will result in it only being visible 775mm above the existing 2m high timber fence.
- Refers to an existing building in the rear garden of No. 21 Marian Park which projects over 3.5m in height and 5m along the North-West boundary.

Reason for Refusal No. 3

- Considers that 23 Marian Park is unique on Marian Park, in that it is the only detached house to be constructed on the north side of the road and is the only adequately sized site capable of facilitating a development of this nature.
- The design of the development is specifically to cater for disabled independent living required by the applicant due to personal circumstances.

6.2. **Planning Authority Response**

Confirms decision – reference to planner's report.

6.3. **Observations**

None received.

7.0 **Assessment**

7.1. 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:

- Principle of Development/Compliance with Development Plan policy
- Residential Amenity
- Precedent
- Car Parking
- Appropriate Assessment

7.2. **Principle of Development/Compliance with Development Plan policy**

7.2.1. As per the South Dublin County Development Plan 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 in backlands or corner/side gardens, subject to appropriate safeguards and standards.

7.2.2. Reason for refusal no. 1 refers to non-compliance with Housing Policy 17(2) and Section 11.3.2 (iii) Backland Development which set out the criteria for backland development. Specifically, the reason for refusal states that the proposed development represents piecemeal development and that it adversely impacts on the character of the area.

- 7.2.3. While the principle of backland development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development is in keeping with the established character and pattern of development in the vicinity, and would not be detrimental to the amenities of adjoining properties or the character of the area.
- 7.2.4. In this regard I would note that the area is characterised by well established, medium density, two storey, semi-detached suburban type housing.
- 7.2.5. The established pattern and character of development in the area is one of dwelling houses with long and relatively narrow rear gardens, with smaller front gardens and off-street parking. It is noted that many have converted and or extended the side garage and or extended to the side and rear.
- 7.2.6. The proposed development results in the subdivision of the site and the construction of a dwelling to the rear of the established building line, which in my view, is not in keeping with the established pattern and character of development. It also appears to rely on a shared vehicular access resulting in amenity impacts on the existing dwelling.
- 7.2.7. It is submitted by the applicant that the appeal site is of sufficient area and does comply with Section 11.3.2 (iii) and should be considered favourably by the Board.
- 7.2.8. In this regard the rear garden of the existing house is approx. 33m in length and the area of the appeal site is 522sqm. While it is acknowledged that the appeal site is relatively large, it is similar in size to the majority of houses along Marian Park. I would concur with the planning authority that to permit backland development on this site would represent piecemeal development, which would be significantly out of keeping with the established pattern of development in the area. I would also agree with the planning authority that an extension to the existing house would be more appropriate.
- 7.2.9. I am satisfied, therefore, that the proposed development represents piecemeal backland development and would be significantly out of keeping with the established pattern and development of the area and is contrary to Section 11.3.2 (iii) of the County Development Plan and should be refused.

7.3. Residential Amenity

- 7.3.1. 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.
- 7.3.2. Reason for refusal no. 1 refers to the fact that the proposed development is not guided by a site analysis process with regard to scale, siting and layout as required under Section 11.3.2 (iii). Reason for refusal no. 2 refers to the proposed development seriously impacting on the residential amenity of adjoining development to the east.
- 7.3.3. I am of the opinion that the intent of the policy with respect to providing a site analysis is to consider how the proposal integrates with the surrounding area in terms of architectural integration, site, scale and layout.
- 7.3.4. The floor area of the proposed house is 91sq.m is generous in scale and complies with the provisions of the Quality Housing for Sustainable Communities – Best Practice Guidelines which require a minimum floor area of 44sqm for a one-bedroom dwelling.
- 7.3.5. The layout of the proposed single storey house is ‘L’ shaped, backs onto the eastern and northern boundary, and is orientated in a southerly direction.
- 7.3.6. The elevation along the eastern boundary is 12m in length and is set off this boundary with the rear gardens of no. 34 and 36 Marian Grove by 0.8m. The elevation along the northern boundary is 8.5m in length and includes a wardrobe and bathroom window and is set off the northern boundary with house no. 40 and 42 Charleville Court by 0.7m.
- 7.3.7. The elevation along the western boundary is 5.9m in length and set off the western boundary by 0.7m increasing to 1.7m. The glazed entrance to the house is stepped back and set off the western boundary by 2.4m, while the living area is stepped off the western boundary by 3m.

- 7.3.8. The private amenity space is provided to the south, with sliding doors from the living area giving level access to the outdoor space. The rear garden of no. 23 is to be subdivided such that the private open space to the proposed house would be 11m in length, with a rear garden to the existing house remaining of 10m in length. The private amenity space to serve the proposed and existing house comply with the minimum private amenity space standards.
- 7.3.9. As already outlined in section 1 above the existing rear garden is generally overgrown. I would concur with the applicant that the existing mature trees on site already block light to the neighbouring properties to the east and northern boundaries, and that the removal of existing trees would enhance the amenity of the adjoining gardens.
- 7.3.10. I have examined the volume study submitted with the appeal and am satisfied, subject to the further reduction in height as detailed, that there will be no over shadowing. In this regard, I would also note that a separation distance of 9.3m and 8.9m respectively are provided to the rear elevations of houses no. 40 and 42 Charleville Square and 17.3m and 20.4m to the rear elevations of houses no. 34 and 36 Marion Grove.
- 7.3.11. Notwithstanding the length and proximity of the proposed house along the eastern and northern boundary, I am satisfied given the single storey nature of the proposed house, finishes proposed and separation distances to the rear elevations of adjoining properties, that the proposed house would not give rise to an overbearing impact on the residential amenity of these dwellings.
- 7.3.12. I am satisfied, therefore, that the second reason for refusal should not be upheld.

7.4. Precedent

- 7.4.1. Reason for refusal no. 3 refers to the undesirable precedent for other similar developments.
- 7.4.2. The applicant considers that no. 23 Marian Park is unique on Marian Park, in that it is the only detached house to be constructed on the north side of the road. I can confirm that this is the case, but would also note that the garden length and width is similar to other houses along the road. I do not accept the contention by the

applicant that the appeal site is the only adequately sized site capable of facilitating a development of this nature. While the applicant's circumstances are noted, and that the house has been designed to cater for the applicant's needs are understood, I do not consider that this site is unique.

7.4.3. While each application is considered on its merits, I can find no other example of a similar permitted development in the area and I am of the view that to permit this development would not result in a constructive precedent.

7.4.4. I am satisfied, therefore, that this reason for refusal should be upheld.

7.5. Car Parking

7.5.1. The existing house includes a vehicular access and driveway. It is noted that the details in relation to car parking for the proposed house are unclear. The drawings submitted appear to indicate that one parking space is proposed along the gable of the existing house.

7.5.2. It is noted in the planners report that no parking spaces have been provided, while the Roads section of the planning authority had no objection. This issue was not included as a reason for refusal nor was it raised in the appeal. If the Board are minded to grant permission this issue could be addressed by way of condition.

7.6. Appropriate Assessment

7.6.1. 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. It is recommended that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the subdivision of the site, the proposed development would represent inappropriate piecemeal backland development which would conflict with the established pattern and character of development in the area, contrary to Section 11.3.2(iii) of the South Dublin County Development Plan 2016-2022. The proposed development would set an undesirable precedent and would, therefore, be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Planning Inspectorate

26th February 2018