



An  
Bord  
Pleanála

## Inspector's Report ABP-301745-18

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<b>Development</b>	Two detached dormer type houses, new entrance, and all associated site works
<b>Location</b>	7 Bohernabreena Cottages, Tallaght, Dublin 24.
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18A/0079
<b>Applicant(s)</b>	Paul & Thomas Maguire
<b>Type of Application</b>	
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Paul & Thomas Maguire
<b>Date of Site Inspection</b>	10 <sup>th</sup> July 2018
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 0.1214 hectares, is located to the south west of Dublin city, south of Tallaght and west of Knocklyon and Firhouse. The appeal site is a yard area located to the rear of no. 7 Bohernabreena Cottages. The yard area is not in use and has an existing shed and is defined by block walls. The site has an existing vehicular entrance to the west from the road serving the existing cottages. Adjoining uses and properties include the rear garden of no. 6 to the north, the curtilage of no. 7 to the west, the rear garden of no. 8 to the south and a vacant plot to the east with frontage along Allenton Drive (permission has been granted for two dwellings on this site), however is no defined boundary between the site and the plot to the east. It is notable that there have been dwellings permitted in the rear gardens of the cottages to the south of the site with two dwellings to the rear of each of no.s 8, 9 and 10.

## **2.0 Proposed Development**

2.1. Permission is sought for the construction of two detached dormer type houses with new entrance from Bohernabreena Cottages. Each of the dwellings have a floor area of 178.7sqm and a ridge height of 6.605m. Both dwellings feature a pitched roof and external finishes mainly of render, with some cedar cladding and zinc detailing and blue black roof slates. Vehicular access is between no. 6 and no. 7 Bohernabreena Cottages.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused based on one reason...

1. The proposed two dwellings, due to their location, height and failure to adhere to the surrounding pattern of development, would result in a cramped form of backland development, would give rise to overlooking and have an overbearing impact on the adjacent properties 6, 7 and 8 Bohernabreena cottages. Thus, the proposed development would seriously injure the amenities and depreciate the value of the

property in the vicinity by reason of over-development and would set an undesirable precedent for similar development on adjoining sites. The proposed development would therefore, materially contravene the South Dublin County Development Plan 2016-2022, as it would be contrary to the zoning objective of the area which is 'RES', to protect and/or improve Residential Amenity and would be contrary to proper planning and sustainable development of the area.

### **3.2. Planning Authority and Technical Reports**

Environmental Health Officer (09/04/18): No objection subject to conditions.

Roads Department (09/04/18): No objection subject to conditions.

Water Services (18/04/18): Further information required regarding water supply.

Irish Water (23/04/18): Further information required regarding water supply.

Planning report (30/04/18): The proposal was considered to be backland development that would have an adverse impact on adjoining amenities and be contrary to existing pattern of development. Refusal was recommended based on the reason outlined above.

### **3.3. Third Party Observations**

A submission from Myles Perry, no. 8 Bohernabreena Cottages, Tallaght, Dublin 24.

- The issues raised include the design, scale and proximity of the dwellings to adjoining properties and potential overlooking, the sewer is incorrectly indicated on the drawings submitted.

## **4.0 Planning History**

SD17A/0045 (2017): Permission granted for a detached dwelling with entrance from Bohernabreena Cottages.

SD15A/0197 (2015): Permission granted for three dwellings, a single-storey dwelling on the appeal site and two semi-detached dwelling on the plot to the west fronting Allenton Drive.

SD05A/0054 (2005): Permission refused for 6 no. dwellings (appeal site and plot of land to the east), refused due to overdevelopment of the site.

SD05A/0486 (2005): Permission granted for 3 no. dwellings (appeal site and plot of land to the east).

On the adjoining site to the west...

SD17A/0444 (2017): Permission granted for 2 no. semi-detached dwellings fronting Allenton Drive on the plot of land to the east.

SD07A/1038 (2007): Permission granted for 2 dwellings on the plot of land to the east.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the South Dublin County Council Development Plan 2016-2022. The site is zoned RES with a stated objective 'to protect and/or improve Residential Amenity'.

Section 11.3.2 (iii) relates to Backland Development

- 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

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been lodged by Hughes Planning and development Consultants on behalf of Paul and Thomas Maguire, 10 Kilvere Park, Cypress Downs, Templeogue, Dublin 6W.

- It is noted that permission was previously granted on the site for a single dwelling (SD17A/0045, SD15A/0197) with the proposal for an additional dwelling. The appellants are amenable to conditions altering the design of the dwellings for the benefit of the adjacent properties if considered necessary.
- The proposal is compliant with the zoning under Development Plan policy and complies with Development Plan standards in relation to parking. The proposal has regard to policies in relation to backland development, privacy and open space and residential density.
- It is noted there is precedent for similar levels of development with two dwellings to the rear of one of the cottages under ref no. SD07A/01038.
- It is considered that the design of dwelling has adequate regard to the amenities of adjoining properties and that a similar dwelling was granted under the previous two applications on site. The appellants are willing to amend the design to alleviate concerns over overlooking such as provision of roof light to serve the middle bedroom at first floor level or omission of first floor side bedroom window (eastern elevation house A and northern elevation House B). The proposal would have no significant impact in relation to overshadowing of adjoining properties.
- The proposal would not have a significant impact on the visual amenities of the area.
- The proposal is compliant with the Regional Planning Guidelines, the Urban Design Manual and the National Planning Framework.

## 6.2. Planning Authority Response

A response has been received from South Dublin County Council.

- The Planning Authority confirms its decision and noted that the issues raised in the appeal have been covered in the planners report.

## 7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Design, scale, visual/residential amenity, pattern of development

Appropriate assessment

### 7.2 Design, scale, visual/residential amenity, pattern of development:

7.2.1 The reason for refusal notes that the design, scale and layout of the proposed dwellings “would result in a cramped form of backland development, would give rise to overlooking and have an overbearing impact on the adjacent properties 6, 7 and 8 Boherbreena cottages”. The site is a yard area to the rear of 7 Bohernabreena Cottages, which appear to have been separate to the existing dwelling in the recent past. It is proposed to construct two new dwellings and permission has been granted for 2 no. dwellings on the site to the north east (fronting onto Allenton Drive). The dwellings are two-storey/storey and half dwellings. In terms of overall density and development control standards the proposed dwellings are provided with sufficient level of private open space, off-street car parking and vehicular access. The existing dwelling (no. 7) is already detached from the site and such appears to have been the case in the recent past with the existing dwelling appear to have sufficient private amenity space, off-street car parking and vehicular access, There is a precedent for development of dwellings to rear of the existing cottages with two dwellings

developed to the rear of each of no.s 8, 9 and 10 to the south of the site (single-storey dwellings).

7.2.2 The site lends itself to the provision of additional residential development due its size and the ability to access the site from the road network. The fact that there is a precedent for development to the rear of the existing cottages is also factor in its favour. The question that arise is the scale, layout and design of dwellings satisfactory in the context of the amenities of adjoining properties. I would note in regards to overall visual amenities of the area, the proposed dwellings are located to the rear of the existing cottages and although higher in ridge height, would not be a significant or prominent visual element in the surrounding area. The proposed dwellings would also be located to the rear of the dwellings permitted along Allenton Drive and would not have a significant visual impact.

7.2.3 I would consider that overall scale or the dwellings relative to adjoining properties is satisfactory. The proposed dwellings are two-storey/storey and half dwellings and are of a scale that has adequate regard to the residential amenities of adjoining properties and would not have an overbearing impact or cause significant overshadowing. The only issue that existing sis the potential for overlooking of adjoining properties due to the fact the dwellings have first floor accommodation and the location of windows relative to the boundary with adjoining properties. I would consider that there is only an issue in relation of dwelling A and the first bedroom which has a window on the southern elevation, in close proximity to the boundary with adjoining property. In all other cases I would consider that the separation distance between windows and adjoining properties as well as orientation is satisfactory. I would also consider that the overall pattern of development would not be out of character in a suburban residential area.

7.2.4 In the case of the first floor window on the southern elevation. There is the possibility that a number of alterations could be made to deal with this issue. The appellants

have noted they are willing to alter the window to provide a roof light only, which could be achieved by omitting the bottom section of the window (vertical section). Having examined the internal layout it would be possible to alter the layout to move the corridor along the northern elevation to the south elevation providing all bedroom windows on the northern elevation, where there is greater separation distance from the boundary with the adjoining property. I am satisfied that subject to a condition to deal with the first floor bedroom window on the southern elevation, the overall design and scale of proposal has adequate regard to the pattern of development in the area and the amenities of adjoining properties, and the proposal would provide for a more efficient use of zoned serviced lands.

### 7.3 Appropriate Assessment:

- 7.3.1 Having regard to the nature and scale of the proposed development and its 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.

### 7.4 Material Contravention:

- 7.4.1 The refusal reason notes that the proposal would be a material contravention of the South Dublin County Development Plan 2016-2022, as it would be contrary to the zoning objective of the area which is 'RES', to protect and/or improve Residential Amenity and would be contrary to proper planning and sustainable development of the area. As discussed earlier, the proposal for two dwelling subject conditions is consistent with zoning policy and the design and scale of what is proposed would be satisfactory in the context of the residential amenities of adjoining properties. The proposal would not constitute a material contravention of zoning policy or any policy under the County Development Plan.



7.4.2 Notwithstanding such I would draw attention to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended). It notes the following...

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(ii) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

## 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the zoning objective for the site, as set out in the South County Dublin Development Plan 2016 to 2022, to the design and layout of the proposed development 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 setting and amenities of the existing or the adjoining

building, would not seriously injure the residential and visual amenities of property in the vicinity or of the area, would be acceptable in terms of pedestrian and traffic safety and convenience and public health and 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 development shall be amended as follows:

(a) The first floor window on the southern elevation serving bedroom in dwelling A shall be amended with omission of the lower level section of the window (vertical section) or alternatively the first layout shall be amended to provide the corridor along the southern elevation and the bedroom and associated window on the northern elevation.

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 residential amenity and orderly development.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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. 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.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region

Reason: In the interests of sustainable waste management.

7. 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.

8. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 1400 hours 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. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination. cmbR80473H

Reason: To ensure the satisfactory completion of the development.

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Colin McBride  
Planning Inspector

31<sup>st</sup> August 2018

