



An  
Bord  
Pleanála

## Inspector's Report ABP-301794-18

### Development

Subdivision of the existing site and construction of a detached 3-storey house on the side garden of the existing house together with the provision of a new vehicular entrance to serve the existing house; also alterations to the existing house including removal of the existing side patio door and the replacement of an existing front window by a new patio door and all other necessary associated site and development works.

### Location

2A, Durham Road, Sandymount,  
Dublin 4

### Planning Authority

Dublin City Council South

### Planning Authority Reg. Ref.

2516/18

### Applicant(s)

Hugh Mulcahy

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Hugh Mulcahy
<b>Observer(s)</b>	Michael & Cliona Doherty Professor Christopher McGuigan Paula Clancy & Niall McElroy Jill & Peter Wolfe
<b>Date of Site Inspection</b>	23 <sup>rd</sup> August 2018
<b>Inspector</b>	Ronan O'Connor

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located on the western side of Durham Road. On site there is an existing two-storey dwelling, No. 2a Durham Road. To the north, there is a 2 storey dwelling house at No. 2d Durham Road. To the south-west, the site is bounded by the outbuilding and garden of No. 26 Gilford Road, a relatively large 3 storey semi-detached property. To the west is the rear garden of No. 28 Gilford Road. No's 1 and 3 Durham Road, two-storey semi-detached properties, are located opposite the existing site access across Durham Road.
- 1.2. The appeal site is located approximately 350m from Sandymount Village, and is located approximately 600m from Sandymount DART station.

## **2.0 Proposed Development**

- 2.1. Subdivision of the existing site and construction of a detached 3-storey house on the side garden of the existing house together with the provision of a new vehicular entrance to serve the existing house; also alterations to the existing house including removal of the existing side patio door and the replacement of an existing front window by a new patio door and all other necessary associated site and development works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Refuse permission for one reason relating to the impact on the amenity of property in the vicinity by virtue of its design, size and bulk, and lack of private open space for the new and existing dwelling.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the planning officer reflects the decision of the planning authority. Points of note are as follows:

- Safety concerns in relation to the proposed new vehicular access- located on a bend/boundary treatment consists of a high wall.
- Applicant should consider a shared access to serve both dwellings.
- Dwelling will be primarily single aspect as it is located less than a metre away from the boundary wall and is just in from the southern boundary.
- Dwelling complies with minimum size requirements and layouts.
- The 60 sq. m. of open space includes the parking space.
- Part 3 storey panels and solar panels will be out of keeping with the existing environs.
- New dwelling in close proximity to adjoining properties would seriously impact on their residential amenity having regard to visual obtrusiveness.
- The appeal site is the open space of an existing dwelling – would set an undesirable precedent.
- Recommendation to refuse permission.

### 3.2.2. Other Technical Reports

Road – Additional Information - Safety concerns in relation to the proposed new vehicular access- located on a bend/boundary treatment consists of a high wall/Applicant should consider a shared access to serve both dwellings.

Drainage – Additional Information – Require a flood risk impact assessment/provide soakaway calculations to support the design of the proposed soakway.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. A number of third party observations were received. The issues raised include, residential amenity, design, road safety issues and inaccuracies in the planning application.

### 3.5. **Planning History**

3.5.1. 3513/14 – Grant – 2 m high boundary wall/relocation of gateway/

## 4.0 **Policy Context**

### 4.1. **Development Plan**

4.1.1. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Section 16.10.10 'Infill Housing'
- Section 16.10.2 Residential Quality Standards 'Houses'

### 4.2. **Natural Heritage Designations**

4.2.1. None.

## 5.0 **The Appeal**

### 5.1. **Grounds of Appeal**

5.1.1. The Grounds of Appeal, as submitted on behalf of the First Party Appellant, are as follows:

- Z1 zoning does not preclude new residential development.
- No such thing as a typical build for the area – range of development types in the area.
- Size of the house at 175.5 sq. m is neither excessive nor exceptional. Many of the houses in the area have a similar or greater floor area.
- Site coverage will be 40% - typical for houses in the area/within development plan standards.
- Existing house at 2A Durham Road has no open space to the rear.
- Designated open space will be to the front and side of the houses/will benefit from sunlight from the south and east/walls provide security and privacy.

- Discounting the car parking space, the proposed house would have 60 sq. m. of open space/this is contrary to what is stated in the planner's report/existing house would have approximately 70 sq. m., discounting the parking space.
- Possible the future applicants would not have cars given the proximity to the DART and to Sandymount Village.
- Some of the existing houses in the area have open space of lesser quality than that proposed here.

#### Residential Amenity

- Will not overshadow No.'s 26 & 28 Guildford Road as these are located to the south of the proposed house/will not overlook these properties as there is a blank gable wall facing them/two storey element adjoins the rear boundary of these properties so cannot be considered overbearing/existing house at No. 26 Guildford Road would be the dominant house.
- Four storey Windermere Apartments to the west present a façade that is arguable more obtrusive than the subject proposal would be.
- In relation to 1-3 Durham Road, these are located across Durham Road from the proposed new house so will not result in overshadowing/no overlooking as house is located behind a high wall/no visual impact/minimum distance between windows is 20m.
- In relation to the existing house on site, 2A Durham Road, this will continue to have private open space in accordance with development plan standards.
- Juxtaposition of styles will echo many of the other building relationships in the immediate area.

#### Other

- Flooding - Ground level is 2.35m Malin – Will ensure that the proposed site is not at risk from flooding/1 in 1000 year event is at around 2.0 Malin Head/email in relation to same from Dublin City Council – Attached to submission.
- Car Parking – Durham Road has uncontrolled parking at both sides of the road/a lot of which is commuter parking/road is within the 30kph zone imposed by the

City Council/traffic speeds are quite low/no potential for traffic hazard from the proposed new car parking entrance/applicant would consider a shared access.

- House designed to be sustainable/flexibility of use over time/energy efficient.

## 5.2. Planning Authority Response

5.2.1. None.

## 5.3. Observations

5.3.1. Observations have been received from Michael & Cliona Doherty, Professor Christopher McGuigan, Paula Clancy & Niall McElroy and Jill & Peter Wolfe. The issues raised are as follows:

### Residential Amenity

- Overlooking from balcony and windows/Loss of privacy/will be able to see over the screen.
- Noise levels from balcony
- Impact on light.
- Proposal will be overbearing/built close to other houses

### Design

- Site is small to build a house of this size.
- Design of the house/retention of the high wall is out of keeping with the character of the street and local area/no flat roofed three storey houses/none have first floor balconies.
- Apartment block referred to by appellants is not relevant nor comparable.
- Newer infill houses are low rise with pitched roofs.
- Low quality private open space for both the proposed and existing dwelling on site.

## Other

- Health and safety concerns in relation to the car parking/high wall/narrowing of the footpath.
- Very likely owners will require car parking/car ownership has increased.
- Proposal does not meeting Development Plan policies and guidelines for residential development including those for infill development and for private open space.
- Lack of private open space for the existing and proposed dwelling/sign of overdevelopment.
- Inaccuracies in the planning application in relation to the floor area of the existing building/drawings do not show existing outbuilding on neighbouring site.
- Access/maintenance of the proposed gable wall/rain run-off.
- Need more 4 bedroom houses in the area.

## 5.4. Further Responses

5.4.1. None.

## 6.0 Assessment

6.1.1. The following assessment covers the points made in the appeal submissions and also encapsulates my *de novo* consideration of the application. The main issues in the assessment of the proposed development are as follows:

- Principle of Development
- Design
- Private Open Space
- Impact on Amenity
- Flooding
- Appropriate Assessment

## 6.2. Principle of Development

6.2.1. The subject site is zoned 'Z1' with an objective 'To protect, provide and improve residential amenities'. The provision of dwellings within this zoning is permissible in principle, subject to a detailed assessment.

## 6.3. Design

6.3.1. Section 16.10.10 'Infill Housing' of the Dublin City Development Plan states that infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

6.3.2. While the surrounding area does have examples of larger dwellings, including that large dwelling at No. 26 Guildford Road, the general character of the road is two-storey suburban houses. The proposal here is a three storey dwelling with a contemporary design.

6.3.3. The proposal respects the building line of the adjacent dwelling at No. 2a. In terms of height, the proposal is taller than the existing dwelling on site. This existing dwelling has a pitched roof, with a parapet height of 5.2m, and a ridge height of 7.3m. The proposed dwelling is a flat roof, with a parapet height of 9.05m. As such the proposal will appear significantly higher and more dominant than its immediate neighbour at No. 2a, and relative to other dwellings in the vicinity. While the dwelling drops to 2 storeys on the boundary with No. 26 Gilford Road, the parapet height of this element is still greater than the parapet height of No. 2a.

6.3.4. While there is no objection to the contemporary design approach, and the materials proposed, it is my view that the development is overscaled relative to the restricted site area, would result in an over dominant relationship with the existing dwelling on site, and would present an overbearing form of development when viewed from the street. The proposal represents an overdevelopment of a restricted site which leads to other compromises, such as a lack of sufficient private open space and impacts

on residential amenity (see assessment below). While I note the proposal complies with the indicative standards for plot ratio and site coverage, in order to assess the acceptability or otherwise of a development, these measures need to be used in conjunction with other measures such as building height and the provision of private open space.

#### **6.4. Private Open Space**

- 6.4.1. In relation to private open space, the proposed dwelling would require 60 sq. m of private open space. The Development Plan suggests that this should be located to the rear of the property. The proposed dwelling has an area of open space to the front of the property. However, a large proportion of this is given over to the proposed parking space, and given that the area is all hardstanding, it is possible that up to 2 cars would be parked to the front, all but eliminating this area as an amenity for the property.
- 6.4.2. The existing dwelling would also require 60 sq. m. Similar concerns apply in relation to this area of open space, where the vehicular parking occupies a large portion of the open space. This dwelling, with its existing generous provision of open space, both at the front and side of the dwelling, would be severely compromised in terms of open space provision.
- 6.4.3. As such the proposal does not provide a sufficient standard of private open space for either the existing or proposed dwelling, resulting in an adverse impact on the existing and proposed amenities of the two dwellings.

#### **6.5. Residential Amenity**

- 6.5.1. The potential impacts relate to loss of privacy, noise, overbearing impact/visual amenity, daylight/sunlight/overshadowing.
- 6.5.2. In relation to loss of privacy, the proposed balcony at first floor level would lead to a loss of privacy of the garden space of No. 26 Gilford Road. While an opaque screen is proposed, this is not of a sufficient height to prevent overlooking from occupants that are standing on the balcony. Furthermore, it is considered that the proposed balcony would lead to noise disturbance, by virtue of its elevated position and proximity to the boundary of No. 26 Gilford Road.

6.5.3. When viewed from No. 26, the proposal has a height of 6.35m and a width of 9.5m on the boundary and when viewed from No. 28 Gilford Road, the height is 9.05m and 9.48m in width. As a result, the proposal would present an overbearing impact on the garden of No. 26 Gilford Road and also on the garden of No. 28 Gilford Road, as a result of the excessive scale and bulk of the proposal, combined with the proximity to the boundaries to these dwellings.

6.5.4. In relation to loss of sunlight/daylight and overshadowing, I note that there is an outbuilding in the garden of No. 26 Gilford Road, adjacent to the boundary with the appeal site. From the evidence on file, this is not used for habitation. The remaining surrounding buildings are located at a sufficient distance from the proposed dwelling to ensure that no impacts on daylight or sunlight result to any habitable rooms. There will be degree of overshadowing of the rear garden of No. 28. However I do not consider that this impact in and of itself would warrant a reason for refusal.

#### **6.6. Road Access and Traffic Safety**

6.6.1. The proposed new access point is located on a bend in the road, which has extremely limited visibility. It would appear that a vehicle would need to reverse out of the driveway in order to exit. It is my view that the creation of a new access point at this location would lead to the creation of a traffic hazard.

6.6.2. The applicant has suggested that a shared access, utilising the existing access gate, would be acceptable. However no drawings are submitted in this regard. Furthermore, such an arrangement would be detrimental to the amenity of the proposed dwelling in my view, necessitating a vehicle entering the site traversing over the already compromised private open space of the proposed dwelling. It would further necessitate the removal of the majority of the boundary wall separating the private amenity space serving both the existing and proposed dwelling.

#### **6.7. Flood Risk/Surface Water Drainage**

6.7.1. The issue of flood risk was raised by the Drainage Department of the planning authority, and it was noted that no flood risk assessment was submitted. Further details in relation to the soakaway were also required. This issue did not form a reason for refusal.

- 6.7.2. The appellant has stated in the appeal submission that the ground level is 2.35m Malin and that this will ensure that the proposed site is not at risk from flooding. An email in relation to same from Dublin City Council is attached to submission. This email states that a flood level of 2.3m would be required to ensure that no risk of flooding would result from a 1 in 1000 flood event.
- 6.7.3. Having regard to the information available on [www.floodinfo.ie](http://www.floodinfo.ie)<sup>1</sup> the site lies within the 1 in 1000 fluvial flood zone, representing a low probability of flooding. Furthermore, I note the communication from the Regional Projects & Flood Advisory Office of Dublin City Council, as submitted with the appellant's grounds of appeal, states that a floor level of 2.3m is required, to ensure no risk of flooding. The ground floor level as shown on the drawings is 2.15m, below the required level.
- 6.7.4. However I do not consider that the issue of flood risk, nor the issue of surface water drainage should form a reason for refusal, as a higher floor level could be required by condition, as could details of the proposed soakaway.

## 6.8. **Appropriate Assessment**

- 6.9. Having regard to the nature of the proposed development, a dwelling house within a serviced urban area, and the separation distance to the nearest European site (c200m), 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 the conservation objectives of any European site.

## 7.0 **Recommendation**

- 7.1. Refuse permission for the reasons and considerations below.

## 8.0 **Reasons and Considerations**

1. Having regard to the established pattern of development in the vicinity, it is considered that the proposed development, by reason of the excessive scale and height of the dwellinghouse, the lack of sufficient usable private open space for both the existing house at No. 2a and the proposed dwelling, and by

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<sup>1</sup> Accessed 24<sup>th</sup> August 2018

reason of the proximity of the proposed dwellinghouse to adjoining residential properties, would be visually incongruous and be out of character with the existing pattern of development in the area, and of the streetscape, and would result in overlooking of neighbouring properties and present an overbearing form of development, and as a result, would seriously injure the amenities of the area and of properties in the vicinity. The proposed development is considered to be overdevelopment of a restricted site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the proposed new vehicular entrance, on a bend in the road with very restricted visibility, it is considered that the proposed development would, therefore, endanger public safety by reason of traffic hazard.

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Rónán O'Connor  
Planning Inspector

27<sup>th</sup> August 2018