



An
Bord
Pleanála

Inspector's Report ABP-301879-18

Development	Residential Infill Development.
Location	88 Trees Road Upper, Mount Merrion, Blackrock, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D18A/0284
Applicant(s)	Red Rock Trees Road Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	29 th August 2018
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located at the corner of South Avenue and Trees Road Upper, Mount Merrion, Co. Dublin. The local area is suburban in nature and is characterised by large suburban semi-detached properties.
- 1.2. The appeal site is a corner site and there is a 2-storey detached house on the subject site and adjoining landholding. The existing 2-storey property has extensive front, side and rear gardens relative to the neighbouring houses in the locality. The house on the appeal site is currently vacant and is in a relatively poor condition. The gardens, both front and rear, are currently overgrown and in poor condition.
- 1.3. The site and the rear garden, in particular, slopes gently to the rear boundary line.
- 1.4. The southern boundary of the appeal site adjoins the side boundary of no. 46 South Avenue. No. 46 South Avenue has a single storey garage abutting the appeal site boundary. There are also mature trees located along the common boundary line.
- 1.5. The south western boundary of the appeal site adjoins the rear garden boundary of no. 90 Trees Road Upper. No 90 is a two-storey semi-detached dwelling.

2.0 Proposed Development

- 2.1. Planning permission is sought for one 2-storey detached house with dormer window at attic level.
- 2.2. The single house is proposed on an in-fill site sandwiched between no. 88 and no. 46 South Avenue.
- 2.3. The overall floor area of the proposed house is 210 sq. metres.
- 2.4. The floor plan includes ground floor plan comprising of living space and 3 no. bedrooms at first floor level and 2 no. bedroom at attic level.

- 2.5. The ridge height of the proposed houses measures approximately 9.5 metres above ground level.
- 2.6. Car parking provision is provided and includes two spaces to the front of the proposed house.
- 2.7. The proposed house has a rear garden measuring approximately 237 sq. metres.

3.0 **Planning Authority Decision**

3.1. Dun Laoghaire County Council decided to **refuse** planning permission for 3 no. reasons as follows;

1. Having regard to the overall landholding, the proposed house, by reason of its relationship with 88 Trees Road and their design would constitute piecemeal and disorderly development which would impact on the adjoining residential amenity and would also militate against the comprehensive and orderly development of the overall landholding area and as such is contrary to the proper planning and sustainable development of the area.
2. The proposed detached side gabled house by reason of the roof design and comprising front dormer, and overall height is not capable of satisfactory assimilating into the streetscape and would be considerably at variance with the pattern and design of houses in the vicinity of the site. The proposal would therefore detract from the visual amenities of the area and be contrary to the proper planning and development of the area.
3. The proposed development is not considered to be of a sufficiently high density as envisaged by the County Development Plan and Ministerial Guidelines at this location, which is located circa 600m from Stillorgan Road QBC, circa. 1.25km from Fosters Avenue, entrance to University College Dublin and within walking distance of a Deerpark Neighbourhood Centre, circa 1km from Stillorgan District Centre. The proposed development therefore contravenes

Policy RES3 'Residential Density' of the Dun Laoighaire Rathdown County Development Plan, 2016 – 2022, and Policy RES4: 'Existing Housing Stock and Densification'. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report are as follows;

Area Planner

- The principle of the development is acceptable.
- The surrounding residential densities are low and it is considered that an increase in density in infill sites such as the existing site is essential to achieving sustainable communities.
- The subject site is located in close proximity to public transportation.
- There are concerns in relation to the proximity of the proposal to no. 46 South Avenue and overbearing impacts.
- The remaining private open space for no. 88 is triangular in shape.
- Overlooking will occur given the set back distances.
- The proposed two detached houses fail to respect the character of the area in terms of its roof design and is therefore considered to be an inappropriate design solution.
- Rear gardens comply with the minimum private open space requirements for 4 bedroom houses.

3.3. Internal Reports;

- Transportation Planning; - No objections subject to conditions.
- Surface Water Drainage; - No objections subject to conditions.

3.4. Submission

There is a submission from IW who have no objections.

3.5. Third Party Observations

There are four third party submissions and the issues have been noted and considered. In summary the relevant issues raised include;

- Overintensification
- Traffic congestion
- There is an excessive number of traffic entrances in the immediate area of the appeal site. One of the proposed entrances is 7 metres wide.
- The additional traffic will present danger to school children from nearby schools.
- The proposal overlooks front and rear gardens. There will be a clear loss of privacy for no. 90 Tress Road Upper and 46 South Avenue.
- The height of the proposed dwellings increases the chances of overlooking.
- The proposal is not in keeping with the established design of the local area.
- It is submitted that the existing vehicular entrance at no. 88 could be used to provide for the proposed vehicular entrance.
- All existing mature trees should be retained.

4.0 Planning History

- L.A. Ref. D18A – 0264 – Concurrent planning application on the subject landholding for construction of 2 no. houses with new vehicular entrance. Dun Laoghaire-Rathdown County Council **refused** permission for the following reasons; (1) adverse impact on existing residential amenities, (2) adverse impact on streetscape, and (3), inadequate residential density given location proximate to amenities and QBC. This decision to reduce permission was

appealed by the applicant and there is a current live appeal (appeal ref. 301881).

5.0 Policy Context

5.1. Development Plan

The operational Development Plan is the Dun Laoghaire-Rathdown County Development Plan, 2016 – 2022.

The appeal site is zoned Objective A 1 ‘to protect and-or improve residential amenity’.

Section 8.2.3.4 of the County Development Plan sets out guidance in relation to

- Corner / side garden sites
- Infill

6.0 The Appeal

6.1. The following is the summary of a first-party appeal submitted by Hughes Planning and Development Consultants on behalf of the applicant;

Refusal no. 1

- The proposed dwelling is located approximately 1m from the property of no. 46 South Avenue. The Planning Authority notes that the proposal extends out 4m from the adjoining rear building line. The Planning Authority considers that the result of the proposed dwelling would have an overbearing impact on the adjoining property, no. 46 South Avenue.
- The remaining private open space provision for no. 88 Trees Road is 210 sq. metres which is considered acceptable.
- It is submitted that the proposal will not result in any overlooking.

- The Board will note that the minimum separation distance between opposing rear windows is 22m.
- However in certain instances and depending on orientation and location in built-up areas, a reduced separation distance may be acceptable in light of context.
- The proposal will result in no overlooking due to orientation and absence of directly opposing windows.
- It is acknowledged that the rear garden of no. 88 Trees Road will become triangulated, should permission be granted, and the rear amenity area will not meet the 11 metres garden separation distance onto no. 88 Trees Road.
- It is considered that the first floor habitable rooms of no. 88 would not adversely impact on established residential amenities. These first floor rooms are not habitable rooms.
- It is submitted that the existing rear garden of no. 88 Trees Road is spacious.
- The proposed eastern boundary wall with no. 88 has been increased from 2.245m to 3.479m.
- The revised development has been moved forward to come in line with no. 46 South Avenue which creates a more balanced building line that will respect the form of the established area.

Refusal no. 2

- The proposal is part of an overall development comprising of two separate applications. The proposal seeks to retain the existing dwelling on the site in accordance with guidance in the County Development Plan.
- The Planning Authority notes that the proposal is approximately 1.06m higher than the adjacent no. 46 South Avenue and circa 0.10m higher than the adjoining property no. 88 Trees Road.
- The proposal is consistent with Section 8.2.3.4 of the County Development Plan.

- The County Development Plan acknowledges that a better alternative to demolition is the construction of housing units around the existing house.
- The revised design addresses the Local Authority concerns.
- The redesigned proposal also includes dormers to the rear, roof lights to the front. The proposed roof is redesigned to provide a hipped-roof design.
- The redesign responds to the established built form.
- The overall reduction in height is by 0.300m. This amendment will address concerns in relation to height.
- It is contended that the proposed infill development is an appropriate scale for suburban Dublin.
- The proposal is consistent with Section 4.5 of the National Planning Framework. Section 4.5 aims to achieve more infill / brownfield development. Section 4.5 also states that planning standards shall be flexibly applied in response to well-designed options.
- The proposal is consistent with National Planning Framework NPO 3a (deliver at least 40% of new homes nationally within the built-up footprint of existing settlements) and NPO 11 (encouraging more people to live and work within towns and cities).

Refusal reason no. 3

- The Planning Authority considers an increase in density is required.
- The character of the local area is low density.
- Although the proposed development would not reach a density rule of 35 units per ha it entails a significant increase in density given the low density context.
- The proposal achieves a balance between providing additional units and protecting established residential amenities.
- The proposal is in keeping with RES 3 and RES 4 of the Dun Laoighaire County Development Plan, 2016 – 2022.

County Development Plan

- The proposal is consistent with the zoning objective for the local area.
- The proposal is also consistent with the County Development Plan policy to encourage densification.

Precedent for similar development

- No. 1 Wesley Heights (L.A. Ref. D15A/0528). Permission granted for demolition of extension and construction of detached dwelling.
- No. 2 South Avenue (L.A. Ref. D15A/0597). Permission granted by Dun Laoghaire Rathdown County Council for 2 no. two-storey semi-detached dwellings.
- No. 2 Ard Mhuire Park (L.A. Ref. D17A/0525). Permission granted by by Dun Laoghaire Rathdown County Council for demolition of existing two-storey detached dwelling and single-storey garage and the construction of 3 no. 3-storey dwellings. This application was appealed to An Bord Pleanala and the Board upheld the decision to grant permission.

7.0 Responses

The local authority submitted a response stating that they note the amended drawings but have no further comments and request that the Board uphold their decision to refuse permission.

8.0 Assessment

The main issues for consideration are as follows;

- Principle of Development
- Impact on Established Residential Amenities
- Impact on Streetscape
- Residential Density

- Revised Design Proposals

8.1. **Principle of Development**

- 8.1.1. The appeal site is zoned Objective A 'to protect and-or improve residential amenity'. The established use on the appeal site is residential, and the immediate area is residential, therefore residential would be acceptable in principle on the appeal site.
- 8.1.2. It is also worth considering national planning policy, including the National Planning Framework, 2018, and Sustainable Residential Developments in Urban Areas, 2009, promote and encourage higher residential densities within urban areas and particularly urban areas serviced by high capacity public transportation.
- 8.1.3. Overall the principle of the proposed development is acceptable.

8.2. **Impact on Residential Amenity**

- 8.2.1. I would note from the submitted drawings that the proposed house is set back by 1 metre from the common boundary and approximately 3.1m from the gable elevation of the adjoining property, i.e. no. 46 South Avenue. I would also note that the proposed 2-storey house projects beyond the rear building line of no. 46 South Avenue by approximately 4m. I would not consider, having regard to the separation distance between the proposed house and no. 46 South Avenue that the impact of the proposed development would adversely impact on the residential amenities of no. 46 South Avenue.
- 8.2.2. However I would consider that the configuration of the proposed site layout would present problems and loss of residential amenity to no. 88 Trees Road the established house on the landholding. The gable elevation of the proposed house has a minimum set back distance from the rear corner of no. 88 Trees Road by approximately 4 metres. This set back distance would ensure that parts of the rear elevation of no. 88 Trees Road would look directly towards a two-storey gable

elevation and a single storey gable elevation which has a height range of 3m – 3.6m. I would consider that given the proposed set back distances and the orientation of no. 88 Trees Road relative to the proposed development that the proposal would significantly diminish established residential amenities of no. 88 Trees Road, in terms of visual impact and loss of light. The development as proposed would also set an undesirable precedent for other such development in the local area.

- 8.2.3. Furthermore, and allowing for the proposal in the con-current application (appeal ref. 301881 which proposes 2 no. houses within the same landholding) the remaining rear garden for no. 88 Trees Road would be tri-angular in shape. As such the first floor rear elevation of no. 88 Trees Road would be a relative short distance from the rear garden of the proposed house. This distance would range from 6m – 9m and in my view would present overlooking onto the proposed rear garden and set an undesirable precedent for other such development in the local area.

8.3. **Impact on Streetscape**

- 8.3.1. In considering the impact of the proposed development on the existing streetscape I would note that there are no conservation issues to consider. The existing property on the appeal site is not a protected structure nor are there any protected structures located in the immediate area. In addition there is no designated ACA within the local area.
- 8.3.2. The roof ridge of the proposed house is slightly higher than the roof ridge of no. 46 South Avenue.
- 8.3.3. The proposal includes a dormer window to the front elevation and therefore departs from the established pattern of development in the immediate locality. I note that the local authority concluded that the proposed development would be at variance with the pattern of development and the design in the local area.

In considering the Local Authority's refusal reason no. 2 I would also have regard to national planning policy. National planning policy, including the National Planning Framework, 2018, and Sustainable Residential Developments in Urban Areas, 2009, promote and encourage higher residential densities within urban areas and particularly urban areas serviced by high capacity public transportation. As such in order to densify appropriate suburban sites it would be necessary, in my view, to propose development schemes that would be at a design variance to the established pattern of development. I therefore would not concur with the Local Authority refusal reason no. 2 on the basis of national planning policy which encourages and promotes higher residential densities.

8.4. **Residential Density**

- 8.4.1. It is policy of the County Development Plan, 2016 - 2022, i.e. Policy RES3 to promote higher residential densities to achieve more compact development. This policy provision is consistent with national policy in the National Planning Framework, 2018.
- 8.4.2. The appeal site, in my view, offers an opportunity to increase residential densities given the proximity of the appeal site to QBC's and Luas(stilloragn), both considered high quality transportation networks. The appeal site is located in a mature area and is well served by amenities. The established residential amenities are considered low having regard to national policy.
- 8.4.3. Section 8.2.3.2 of the County Development Plan outlines that higher densities shall have regard to surrounding dwellings and should be achieved in tandem with the protection of amenity. Overall Section 8.2.3.2 of the County Development Plan advises in general that the number to be provided on a site shall be determined by the 'Sustainable Residential Development in Urban Areas, 2009'. The County Development Plan outlines that minimum residential densities shall be 35 units per ha.

The site area of the overall landholding is 0.167ha and given the large houses, proposed and existing on the landholding, this would amount to a density of 23.9 units per ha.

- 8.4.4. The recently adopted National Planning Framework (NPF) recommends compact and sustainable towns / cities, brownfield development and densification of urban sites. The themes of compact and sustainable development are reinforced by policy objective NPO 35 from the NPF as this policy recommends increasing residential density in settlements including infill development schemes and increasing building heights. It is national policy, (i.e. Sustainable Residential Development in Urban Areas, 2009) to promote residential densities in urban areas in close proximity to services and public transport. The appeal site offers an opportunity to fulfil these national objectives as the subject site is located within walking distance of established amenities and a quality bus corridor (QBC) is situated on the Stillorgan Road within 600m of the appeal site.
- 8.4.5. It is national guidance in accordance with the 'Sustainable Residential Development in Urban Areas, 2009', to promote and encourage higher residential densities where appropriate, i.e. within proximity to cities and towns. The proposed development, in my view, represents a significant shortfall in housing provision and in the absence of any demonstration or evidence that the proposed shortfall in densities is acceptable I would conclude that the proposed development is contrary to national guidelines.

8.5. **Revised Design Proposals**

8.5.1. The revised design proposal includes the following;

- A redesigned roof profile
- The proposed house is moved forward
- Second side passage removed
- Relocating the proposed dormer window from front to rear elevation
- The proposed roof pitch is lowered by 300mm

8.5.2. Although the design and positioning of the proposed house has been revised I would consider that the fundamental concerns including overlooking, visual impact and loss of light as outlined above in Section 8.2 would still remain in place.

9.0 Recommendation

9.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission be refused for the reasons set out below.

REASONS AND CONSIDERATIONS

1. It is considered that the proposed house by reason of its scale and positioning adjacent to the adjoining boundary lines of the adjoining residential property, no. 88 Trees Road Upper, would have an overbearing impact, would be visually obtrusive, would overlook and would seriously injure the residential amenities of the adjoining property. As such the development would detract from the amenities of adjoining property, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed development would, seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the nature, scale and housing density of the proposed development, and the provisions of the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas” issued by the Department of the Environment, Heritage and Local Government (2009) in relation to housing density in suburban sites well served by public transportation, it is considered that the proposed development would result in an inadequate housing density that would give rise to an inefficient use of zoned residential land and of the infrastructure supporting it, would

contravene Government policy to promote sustainable patterns of settlement and the policy provisions in the National Planning Framework, 2040, and would, therefore, be contrary to the provisions of the said Guidelines and policy provisions. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney

Planning Inspector

5th September 2018