



An
Bord
Pleanála

Inspector's Report ABP-301881-18

Development	Residential Infill Development.
Location	88 Trees Road Upper, Mount Merrion, Blackrock, Co. Dublin.
Planning Authority	Dun Laoighaire-Rathdown County Council
Planning Authority Reg. Ref.	D18A/0264
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 with extensive front, side and rear gardens relative to the neighbouring houses in the locality situated on the landholding. 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 western boundary of the appeal site adjoins the 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 2 no. two-storey detached houses.
- 2.2. The 2 no. houses are proposed on an in-fill site sandwiched between no. 88 and no. 90 Tress Road Upper.
- 2.3. The overall floor area of each house is 165 sq. metres.
- 2.4. The floor plan of each house is identical and includes ground floor plan comprising of living space and 3 no. bedrooms at first floor level and 1 no. bedroom at attic level.
- 2.5. The ridge height of the proposed houses measure approximately 9.5 metres above ground level.
- 2.6. Car parking provision is provided and includes two spaces to the front of each house.
- 2.7. House no. 1 has a rear garden measuring 93 sq. metres and house no. 2 has a rear garden measuring 75 sq. metres.

3.0 Planning Authority Decision

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

1. Having regard to the overall landholding, the proposed two detached houses, by reason of their 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 two detached side gabled houses by reason of their roof design and comprising front dormers, and overall height are 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 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. 88 Trees Road Upper and overbearing impact.
- The remaining private open space for no. 88 is triangular in shape.
- No significant overlooking will occur.
- 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.
- The Transportation Department seeks additional information.

3.3. Internal Reports;

- Transportation Planning; - Additional information sought for the following; (a) demonstrate turning movements for the car parking spaces, (b) location of the proposed car parking spaces and ensure compliance with Chapter 8.2.4.9 'Vehicular Entrances and Hardstanding Areas', (c) details of front boundary wall and (d) confirm the bus stop to the front of the proposed development is no longer in use.
- 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 two 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 Trees 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 – 0284 – Con-current planning application on the overall landholding for construction of one no. house with new vehicular entrance. This application was **refused** permission by Dun Laoighaire Rathdown County Council and is currently a live appeal (appeal ref. 301879).

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 ‘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

- It is submitted that the Planning Authority is concerned with the 2m separation distance of the proposed development from no. 88 Trees Road however the Planning Authority states that the 2m separation distance from no. 90 Trees Road is not a concern.
- 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 Upper will become triangulated, should permission be granted, and the rear amenity area will not meet the 11 metres garden separation distance on no. 88 Trees Road Upper.
- It is considered that the first floor habitable rooms of no. 88 would not adversely impact on established residential amenities in terms of overlooking. These first floor rooms are not habitable rooms.
- It is submitted that the existing rear garden of no. 88 Trees Road Upper is spacious.
- The proposed eastern boundary wall with no. 88 Trees Road Upper has been increased from 1m to 2.4m.
- The proposed alteration will create a more balanced design.
- As the proposed dwelling is proposed north-south it will create no overshadowing on the adjacent garden of no. 88 Trees Road Upper.
- The Planning Authority responding to the third party submission acknowledges that no significant overlooking will occur.

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 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 revised design includes a pair of semi-detached dwellings.

- The redesigned proposal also includes a dormer to the rear, rooflights to the front. The proposed roof is redesigned to provide a hipped-roof design.
- The revised design 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 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 Policy RES 3 and and Policy 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 Laoighaire Rathdown County Council for 2 no. two-storey semi-detached dwellings.
- No. 2 Ard Mhuire Park (L.A. Ref. D17A/0525). Permission granted by Dun Laoighaire 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 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, as these policy documents 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. In terms of considering the impact of the proposed development on residential amenities I would have regard firstly to the Local Authority's planners report. The planner's report notes that house no. 1 is set back from the proposed common boundary line by 1 metre. I would also note that the two-storey element of the proposed house no. 1 would extend beyond the established rear building line of no. 90 Trees Road Upper by approximately 1.4m. Overall I would not consider these impacts significant and as such the proposal would not in my view diminish established residential amenities of no. 90 Trees Road Upper.
- 8.2.2. However I would consider that the configuration of the proposed site layout would present problems and loss of residential amenity for no. 88 Trees Road Upper. The gable elevation of proposed house no. 2 has a minimum set back distance of 2 metres from the rear corner of no. 88 Trees Road Upper. This set back distance would ensure that parts of the rear elevation of no. 88 Trees Road Upper is looking directly towards a two-storey gable elevation and a single storey gable elevation which has a height range of 3m – 3.8m. I would consider that given the proposed set back distances and the orientation of no. 88 Trees Road Upper relative to the

proposed development that the proposal would significantly diminish establish residential amenities for no. 88 Trees Road Upper in terms of visual impact and loss of light. The proposal would therefore set an undesirable precedent for other such development in the local area.

8.2.3. Furthermore, and allowing for the proposed development in the con-current application (appeal ref. 301879) the remaining rear garden for no. 88 Trees Road Upper would be tri-angular in shape. As such the first floor rear elevation of no. 88 Trees Road Upper would be a relative short distance from the rear gardens of the proposed developments in house no. 1 and no. 2. These distances would range from 4m – 9m and in my view would present overlooking towards the proposed rear gardens, especially house no. 2, 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 in the immediate area to the appeal site. In addition there is no designated ACA within the local area.

8.3.2. As noted in the planner's report and evident from the submitted drawings the proposed 2 no. houses are higher than either no. 88 Trees Road Upper and no. 90 Trees Road Upper. The proposed houses are 0.54m higher than the adjoining property at 90 Trees Road Upper and 0.77m higher than the adjoining property 88 Trees Road Upper.

8.3.3. I would note that the proposed development has higher heights than the immediate houses and the proposal includes a dormer window to the front elevation and therefore departs from the established pattern of development. 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 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 in established low density sites it would be necessary, in my view, to consider proposed 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, both considered high quality transportation networks. The appeal site is located in a mature area and is well served by amenities. The established residential densities 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 that in general 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.

- 8.4.4. The site area of the appeal site is 0.0542 ha and given the proposed two houses this would amount to a density of 23.9 units per ha. It is also notable that there is a concurrent application for a house within the same landholding as the appeal site. This concurrent application is also a live appeal (appeal ref. 301879).
- 8.4.5. 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.
- 8.4.6. 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;
- Replacing two detached dwellings with a pair of semi-detached houses

- A redesigned roof profile
- The proposed houses are moved forward
- Relocating the proposed dormer window from the north elevation to the south elevation (rear elevation)
- The proposed roof pitch is lowered by 300mm

8.5.2. Although the design and positioning of the proposed houses have 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 2 no. houses by reason of their 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
4th September 2018