



An  
Bord  
Pleanála

## Inspector's Report ABP-302093-18

---

<b>Development</b>	Erection of a house in side garden.
<b>Location</b>	1, Ashfield Close, Ballymount Lane, Kingswood, Dublin 24
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD18A/0147
<b>Applicant(s)</b>	Patrick J. Courtney
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Chris Spring & Others
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> September 2018
<b>Inspector</b>	Michael Dillon

## **1.0 Site Location and Description**

The site, with a stated area of 0.016ha, comprises the side garden of no. 1 Ashfield Close, Kingswood, Tallaght, Dublin 24 – a short cul de sac. No. 1 is a two-storey semi-detached house, with fully hipped, brown tile roof. The front elevation of the house has brick at ground floor level and painted plaster at first floor level. There is one on-site parking space at present, with access from Ashfield Close. The front garden boundary wall is 0.75m high. The rear garden boundary wall is 2.2-2.4m in height; and is capped and dashed. The side elevation of the house addresses the front elevations of no.s 1-4 Ashfield Avenue (two-storey houses) of the opposite side of the road. The area is provided with footpaths and grass margins within which are two mature sycamore trees on the site side of Ashfield Avenue and a further tree on the opposite side of Ashfield Avenue within the grass margin in front of no.s 2 & 3.

## **2.0 Proposed Development**

Permission was sought on 30<sup>th</sup> April 2018, to construct a two-storey, three-bedroom, detached house of 89m<sup>2</sup>, with fully hipped roof. External finishes are brick and plaster, with concrete tiled roof. Provision is made for one car-parking space within the front garden curtilage, with access from Ashfield Close. A separate pedestrian access to the front door is to be provided from Ashfield Avenue. The existing house on the site will retain a side passage. It is proposed to connect to the existing public watermain and foul sewer. Surface water is to be discharged to a soakway within the rear garden.

## **3.0 Planning Authority Decision**

By Order dated 25<sup>th</sup> June 2018, South Dublin County Council issued a Notification of decision to grant planning permission subject to 12 no. conditions, the principal ones of which may be summarised as follows-

1. Development to be carried out in accordance with plans and particulars submitted with the application.

2. Applicant to provide a shared vehicular entrance between existing no. 1 Ashfield Close and the new dwelling.
7. House shall be numbered 1A.
8. External finishes shall harmonise with adjoining dwelling at no. 1 Ashfield Close.
9. De-exempting Classes 1 & 3 exemption from Part 1 of Schedule 2 of Planning and Development Regulations 2001 (as amended).
11. Relates to construction hours.
12. Requires payment of a development contribution of €8,047.38.

#### **4.0 Planning History**

No recent relevant cases.

#### **5.0 Policy Context**

##### **5.1. Development Plan**

The relevant document is the South Dublin County Council Development Plan 2016-2022. The site is zoned 'RES' – To protect and/or improve Residential Amenity. Section 11.3.2(ii) of the Plan deals with houses on corner/side garden sites.

##### **5.2. Natural Heritage Designations**

There are no natural heritage designations within the vicinity of the site.

#### **6.0 The Appeal**

##### **6.1. Grounds of Appeal**

The appeal from Chris Spring & Others, 3 Ashfield Avenue, Kingswood Heights, Tallaght, received by An Bord Pleanála on 18<sup>th</sup> July 2018, can be summarised in bullet point format as follows-

- The PA has not had regard to the amenity concerns of residents – particularly the occupants of no.s 1-3 Ashfield Avenue.
- The windows in the new house, addressing no.s 1-3, would result in overlooking and loss of privacy for existing residents.
- Other houses built in side gardens in Ashfield Estate have been in character with the design of the estate.
- Two diseased trees in the grass margin on Ashfield Avenue, which might have provided some screening, will have to be removed.
- The proposed house will have limited car-parking. There is already parking congestion on Ashfield Avenue and Ashfield Close.
- Residents have worked hard for the past forty years to keep the estate in good order.
- The proposed development is out-of-character with houses in the estate.

## 6.2. Applicant Response

The response of Patrick J. Courtney, received by An Bord Pleanála on 2<sup>nd</sup> August 2018, can be summarised in bullet point format as follows-

- There is a separation distance of more than 22m between the side elevation of the proposed house and the front elevations of no.s 1-3 Ashfield Avenue. This will ensure that there will be no significant degree of overlooking. The PA was satisfied with this separation distance.
- The building lines of the proposed house – front and back – largely conform to the building lines of no. 1 Ashfield Close.
- The shared driveway access with no. 1 Ashfield Close is an acceptable compromise in relation to traffic safety and parking requirements for the existing and proposed house on this site. This will allow for the maintenance of the existing grass verge.
- The proposed house has been designed to match the existing house on this site. This will create a sense of harmony, which will allow the house to be incorporated into the streetscape.

### **6.3. Planning Authority Response**

The response of SDCC, received by An Bord Pleanála on 7<sup>th</sup> August 2018, indicated that there was no further comment to make.

### **7.0 Observations**

None received.

### **8.0 Assessment**

The principal issues of this appeal relate to residential amenity, and car-parking.

#### **8.1. Development Plan & Other Guidance**

The site is zoned for residential use. Housing within such a zoning is acceptable in principle. Section 11.3.2(ii) of the Plan deals with the issues of corner/side gardens – allowing for houses where sites are of sufficient size and where building lines are maintained, character of the area is maintained and requiring provision of dual frontage on the corner site. The proposed development is in accordance with the requirements of this section of the Plan.

#### **8.2. Layout & Design**

The proposed house is small – at 89m<sup>2</sup>. It is of two-storeys, and conforms to the design of the house on the adjoining site. In particular, a fully-hipped roof is proposed. The front and rear building lines of the existing house are maintained. The house is detached – separated from the existing house by a narrow side passage. The design of the house is dual aspect – the front door being located in the gable elevation – with pedestrian access to Ashfield Avenue. Private open space is provided to the rear through sub-division of the existing rear garden of no. 1 Ashfield Close. The fact that trees within grass margins on Ashfield Avenue may have to be removed due to disease, is not a relevant consideration in relation to privacy. The front elevations of no.s 1-4 Ashfield Avenue are located on a public

street. They are separated by more than 22m from the side elevation of the proposed house – a separation distance which is more than sufficient to protect the residential amenities of existing residents. It is open to residents to carry out screen planting in their front gardens to protect their privacy – if such is desired.

### 8.3. **Traffic & Parking**

The original scheme provided for a new vehicular access for the new house from Ashfield Close. The PA considered that the new access was located too close to the corner, and required a shared vehicular access with no. 1 Ashfield Close – by way of condition no. 2. The applicant has not appealed this condition. A shared vehicular access will allow for one parking space each for the two houses on site. Claims by the appellant that there is parking congestion on adjoining streets is not strictly relevant. The applicant is in no way responsible for parking in the area. The parking requirements of the Development Plan can be met within the curtilage of the site.

### 8.4. **Water**

#### 8.4.1. Water Supply

It is proposed to connect to the public water supply. Irish Water had no objection to the proposed development.

#### 8.4.2. Foul Waste

It is proposed to connect to the public foul sewer network – via a manhole within the rear garden of no. 1 Ashfield Close. Irish Water had no objection to the proposed development.

#### 8.4.3. Surface Water

Surface water is to be discharged to a soakway to be excavated in the rear garden of the house. No percolation tests were undertaken, and no drawings were submitted showing the location and size of the percolation area. Notwithstanding this, the PA was satisfied that these matters could be addressed by way of condition – viz. conditions 4 & 5.

## 8.5. Other Issues

### 8.5.1. Financial Contribution

Condition 12 of the Notification of decision to grant planning permission required payment of a development contribution of €8,047.38. A similarly-worded condition should be attached to any grant of planning permission from the Board.

### 8.5.2. Construction Hours

Condition 11 of the Notification of decision to grant planning permission imposed constraints on working hours. The site is located in a residential area, and this is entirely appropriate. A similarly-worded condition should be attached to any grant of permission to issue from the Board.

### 8.5.3. Numbering

Condition 7 of the Notification of decision to grant planning permission related to numbering the new house 1A. This is entirely reasonable. A similarly-worded condition should be attached to any grant of permission to issue from the Board.

### 8.5.4. Appropriate Assessment

The site is located within a built-up suburban area, and is to be connected to the public foul sewer network. The site is neither within nor abutting any European site. Having regard to the nature and scale of the development, the nature of the receiving environment, 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.

### 8.5.5. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

### 8.5.6. De-exemption

Condition 9 made provision for de-exemption of classes 1 & 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. These classes

relate to house extensions and sheds/greenhouses etc. This is reasonable – regard being had to the limited rear garden area being provided with this house. A similarly-worded condition should be attached to any grant of planning permission to issue from the Board.

#### 8.5.7. Part V

The proposed development would not result in any requirement to comply with Part V of the Planning and Development Act, 2000, as amended.

### 9.0 **Recommendation**

I recommend that permission be granted for the Reasons and Considerations set out below, and subject to the attached conditions.

### 10.0 **Reasons and Considerations**

Having regard to the design of the proposed house, the pattern of development in the vicinity, and the provisions made for access and on-site parking, it is considered that, subject to compliance with the attached conditions, the proposed development would not be detrimental to the residential amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 11.0 **Conditions**

1. The development shall be carried out in accordance with plans and particulars submitted with the planning application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.  
**Reason:** In the interest of clarity.
2. A shared vehicular entrance shall be provided for the existing and proposed houses on this site. It shall not exceed 4m in width and shall be



measured from the existing southeastermost vehicular entrance pillar of no. 1 Ashfield Close. At least one on-site parking space shall be provided for each of the two houses on this site.

**Reason:** In the interest of traffic safety and orderly development.

3. The external finishes of the proposed house (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

**Reason:** In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Part 1 of Schedule 2 of those Regulations, shall be carried out within the curtilage of the house, without a prior specific grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of rear garden space is retained for the benefit of occupants of the proposed house, in the interest of residential amenity.

5. All service cables associated with the proposed development shall be located underground.

**Reason:** In the interest of visual amenity.

6. 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. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge to the public sewers, onto the public road or to adjoining properties. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, details of proposed soakway arrangements.

**Reason:** in the interest of orderly development and public health.

7. The number of the proposed house shall be 1A Ashfield Close.

**Reason:** In the interest of orderly development.

8. The site and building works required to implement the development, shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 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.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development, or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

**Michael Dillon,  
Planning Inspectorate.**

**3<sup>rd</sup> October 2018.**