



An
Bord
Pleanála

Inspector's Report ABP-302269-18

Development	Division into two sites, demolition of garage and kitchen, construction of house, new boundary walls, 2 car parking spaces and all associated site works.
Location	32, Knocklyon Heights, Knocklyon, Dublin 16
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18A/0179
Applicant(s)	Liam and Pauline Delaney
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Noel and Mary Frances Maher & others
Observer(s)	None
Date of Site Inspection	21 st September 2018
Inspector	Ciara Kellett

1.0 Site Location and Description

- 1.1. The appeal site is located in Knocklyon, Co. Dublin. It is located towards the end of a cul-de-sac within the housing development of Knocklyon Heights. Knocklyon Heights is located off the Knocklyon road and is c. 250m east of the M50 motorway. It is a mature well-established housing development.
- 1.2. There is a dwelling on the site, no.32 Knocklyon Heights, which is a two-storey detached dwelling with a mansard type roof. It is located on the southern side of the road and the dwellings along this side of the road vary substantially in their design and form. Dwellings along the northern side of the road are almost identical in design, being detached dwellings with gable fronted facades and a projecting porch and living area.
- 1.3. The houses on the southern side of the road, including the subject site rise gently and are at a higher elevation than the dwellings on the northern side of the road. A pedestrian laneway leads from the cul-de-sac providing access to the adjoining Mount Alton housing development and beyond.
- 1.4. One third party appeal has been lodged from neighbours living in dwellings in the vicinity of the subject site.
- 1.5. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. It is proposed to sub-divide the site, demolish the side annex consisting of a single storey garage and kitchen, and construct a two-storey with attic room detached dwelling to the west of the existing dwelling.
- 2.2. The dwelling is proposed as being 193.77sq.m in area and 8.233m in height. The design proposed incorporates a gable fronted elevation with a centrally located porch. An extended living area is proposed at ground floor to the rear and there are 3 bedrooms at first floor and one bedroom in the attic. The attic bedroom incorporates roof lights.
- 2.3. The new dwelling will be built up against a new boundary with no.32, the existing dwelling. The western side passageway of 811mm is proposed between the rear

garden wall of no.30 and the new dwelling. A new entrance of 3.6m wide with a wall of 900mm is proposed to the front.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 11 standard conditions. Conditions of note include no.6 which requires a tree bond to ensure the protection of the tree on and immediately adjacent to the site. Condition no.7 restricts class 1 and class 3 exemptions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority's decision. In summary it includes:

- There is a typo error on application form that erroneously refers to a crèche and beauticians.
- The site is zoned 'RES- To protect and/or improve Residential Amenity'.
- Proposal is permitted in principle subject to compliance with relevant provisions of the Development Plan, with specific reference to Section 11.3.2 which relates to Residential Consolidation – Corner/Side Gardens.
- Floor areas and room sizes comply with the standards of Quality Housing for Sustainable Communities.
- Private open space standards are met in new dwelling and existing dwelling.
- Considers site is suitable to accommodate additional dwelling given the size of the site and the setback from adjoining properties.
- Proposal is not consistent in style with no.32, but the dwellings that exist along this side of the cul-de-sac e.g. no 32-36 vary significantly in terms of architectural style, building mass and roof ridge height.

- Consider it appropriate that the dwelling is not a replica of an existing dwelling on the road, but a standalone design that has taken the adjoining dwellings into consideration.
- Proposal is in keeping with other ridge heights. Proposal would not have a detrimental impact on residential and visual amenity.
- Drawings did not illustrate conservatory that exists to the rear of no.34, but considers that due to the length of the garden it would not result in a significant impact. Further notes there are no windows proposed on the side elevation.
- Roads Department seek a condition reducing the entrance to 3.5m in width. Parks Department require a tree bond.
- Recommends permission is granted subject to conditions.

The decision is in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Parks Department:** No objection subject to conditions.
- **Roads Department:** No objection subject to conditions.
- **Surface Water Drainage:** No objection subject to conditions.

3.3. Third Party Observations

There were four third party submissions from adjacent residents. The issues are those raised in the appeal and are dealt with in Section 6 below.

4.0 Planning History

There is no planning history pertaining to the site itself. Applications in the vicinity include:

- **Reg. Ref. SD08A/0221:** Permission was granted for the demolition of a single storey garage and construction of a two-storey detached dwelling including attic conversion in August 2008 in no.30 Knocklyon Heights – dwelling to the west of the subject site. This has not been enacted upon.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016 - 2023

- 5.1.1. Under the County Development Plan 2016 – 2022, the site is zoned '**RES: To protect and/or improve residential amenity**'.
- 5.1.2. Section 2.4.0 of the Development Plan considers Residential Consolidation – Infill, Backland, Subdivision and Corner sites. Housing **Policy 17** states that '*It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County*'.
- 5.1.3. **H17 Objective 2** states '*To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 implementation*'.
- 5.1.4. **H17 Objective 3** states '*To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation*'.
- 5.1.5. **H17 Objective 5** states '*To ensure that new development in established areas does not impact negatively on the amenities or character of an area*'.
- 5.1.6. Section 11.3.2 (ii) specifically refers to Corner/Side Garden sites. It states (inter alia):
The site should be of sufficient size to accommodate an additional dwelling(s) and an appropriate set back should be maintained from adjacent dwellings; The dwelling(s) should generally be designed and sited to match the building line and respond to the roof profile of adjoining dwellings; The architectural language of the development (including boundary treatments) should respond to the character of adjacent dwellings and create a sense of harmony. Contemporary and innovative proposals that respond to the local context are encouraged, particularly on larger sites which can accommodate multiple dwellings; Where proposed buildings project forward of the prevailing building line or height, transitional elements should be incorporated

into the design to promote a sense of integration with adjoining buildings; and, Corner development should provide a dual frontage in order to avoid blank facades and maximise surveillance of the public domain.

5.2. Natural Heritage Designations

Glenasmole Valley SAC (Site Code 001209) is c. 5km south-west of the site.

Wicklow Mountain SAC (Site Code 002122) is c.5km south of the site. Wicklow

Mountain SPA (Site Code 004040) is c. 5.4km south of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been lodged against the Planning Authority's decision to grant permission. It was submitted by a Consultant on behalf of the residents in no's. 26, 30, 23 and 34 Knocklyon Height. In summary it includes:

- Proposed development would not protect or improve residential amenity.
- Note Section 11 of the Development Plan with respect to the parameters for development of side gardens is referred to in the Planner's Report. Consider that the proposal does not conform to the requirements.
- Consider the Planner concedes that the proposal is at odds with its neighbours viz. *'The applicant proposes a dwelling that is not consistent in style with no.32...'*. Consider that candid admission shows how far wrong the Council went in its assessment.
- Consider reference to proposal not being a replica of the dwelling is more contraventions. Submits that these comments must be challenged. Contends that they imply a substantial relaxation of the Council's own requirements.
- Requests the Board to find the Planner acted erroneously. Contends that there is a clearly defined procedure for a material contravention of the Plan. This did not happen in this case.
- There are numerous errors in the application itself and the consideration given to it by the Council. It is on record that local residents were misled. There is

reference to a creche and beauty salon on the application form. Query how the matter of unauthorised use was clarified. There are errors in the drawing with respect to the porch location. There are queries with details on the drawings. Request the Board to ensure clarification is made in the public domain.

- Design problems include the fact that the house would be built up against the dividing boundary wall on the east side and the passageway on the west side would be just 0.8m wide.
- The house will appear stark, intrusive and at odds with its neighbours. The inclusion of a third floor would exacerbate the overbearing and loss of amenity felt by adjoining residents.
- Image included indicating the conservatory to the rear of no.30 which the Council took very little account of.
- Use of the gable front proves the design is inappropriate. An excessive proportion of the floor space would be inserted in the top floor. The existing house has a mansard roof. What is now proposed would bring an impact profile much more strident than that of the existing house.
- There would be a 4m breach of the rear building line. In view of the orientation of the house that would have notable repercussions for occupants of no.34 as well as other neighbours of no's. 26, 28 and 30.
- There would be 7 roof windows which would be a gross intrusion of privacy.
- Refusal cases referred including PL06D.101998 and PL06D.226938. Suggest refusal reasons for the Board.
- A letter from one of the parties to the appeal is attached from the occupants of no.30. They consider the proposal represents overdevelopment of the site, will be visually obtrusive and will seriously injure their amenities. Consider the Planning Authority has been inconsistent in their approach to this application and make reference to another proposal in Firhouse Reg. Ref. SD17A/0089.

6.2. Applicant Response

A consultant on behalf of the applicants responded to the appeal. In summary it includes:

- Family have grown up and they wish to move to a smaller house. They have lived in the current house for 20 years and have no interest in leaving.
- Consider that the Planning Authority have gone through their application stringently and the application has been found to have met all the planning criteria.
- The existing house at no.32 has a different roof to all the other houses on the road which have a gable/A frame front façade and they have followed this design with the new proposal.
- Inconsistencies on application were typos. There was no intention to convert the existing house into any sort of commercial enterprise. Other errors were drafting errors. All building works will be carried out in accordance with the Building Regulations.
- A side entrance of 0.8m is adequate for a wheelie bin.
- With respect to loss of residential amenity, it is noted that the appellants sought and obtained planning permission for a dwelling in the side garden of their house and it was obviously felt there would be no loss of residential amenity. New dwelling has been kept in line with the building line of no's.34 and 36.
- Windows in the roof are a design feature but can be removed if the Board deems fit.
- Refusal precedents referred to are not of relevance as they are located in different areas and not under the jurisdiction of South Dublin County Council.
- Conclude that there is no valid reason for this application to be refused.

6.3. Planning Authority Response

The Planning Authority responded stating that they confirm their decision and all issues raised have been addressed in the Planner's Report.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Design of dwelling
- Residential and Visual Amenities
- Procedural Issues
- Appropriate Assessment
- Environmental Impact Assessment

7.1. Design of Dwelling

- 7.1.1. The appellants express concerns with the design of the dwelling. Reference is made to Section 11 of the Development Plan wherein requirements for dwellings in side/corner gardens are detailed.
- 7.1.2. The appellants consider that the Planner relaxed the standards for such developments, because it is stated in the Planner's Report that the dwelling is not a replica of the existing dwelling, and it is not consistent in style with the existing dwelling. Having visited the site I can confirm to the Board that the dwellings on the southern side of the road are all very different in style, form and materials. I agree with the Planning Authority whereby it is stated that a different style would be appropriate in this instance. Indeed, I am of the opinion that a house of an identical style to no.32 would in fact have been jarring on the street whereby all the dwellings are of an individual and standalone style. The design proposed has taken cognisance of the prevailing gable front of the dwellings on the far side of the road and that of no.34.
- 7.1.3. The appellants consider that the proposed design is a material contravention of the Development Plan. I disagree with the appellants. I am of the view that the Plan in section 11.3.2 provides for such developments. It states *The architectural language of the development (including boundary treatments) should respond to the character*

of adjacent dwellings and create a sense of harmony. Contemporary and innovative proposals that respond to the local context are encouraged. I am of the view that the dwelling design has responded to the character of adjacent dwellings and is a contemporary and innovative design, and responds to the local context of variety as well as the gable-fronted design that is prevalent in this area.

- 7.1.4. The dwellings on the southern side of the road are large, detached, and on sizeable plots with substantial gardens. It could be argued that this proposal is overdevelopment on the one site having regard to this fact, however, the dwellings on the other side of the road while being detached, are much more tightly spaced. Furthermore, the trees and hedgerows are very mature and add to the sense of enclosure. As such, I am satisfied that the dwelling will not read as being out of kilter or perceived as overdevelopment along this side of the road.
- 7.1.5. In conclusion, I am satisfied that the proposed design is fully in accordance with the requirements of the Development Plan for dwellings in side/corner gardens. It exceeds minimum thresholds for overall area, sizes of rooms and private open space and the design has responded to the local context.

7.2. Residential and Visual Amenities

- 7.2.1. The appellants express concerns with the impact on their residential and visual amenities as a result of the dwelling. It is considered that the inclusion of a third floor would exacerbate the overbearing and loss of amenity felt by adjoining residents. It is considered that the conservatory of no.30 was not taken into account in the assessment and the 4m breach of the rear building line would have notable repercussions for the occupants of no.34 and other neighbours.
- 7.2.2. I do not accept that the attic is a third floor in the first instance. The bedroom proposed is clearly in the attic space and is served only by rooflights that are just below the ridge height of the roof. The rooflight that is at a lower level is at the half landing. There are no windows proposed at first floor on the west side of the dwelling, so there will be no possibility of overlooking into the rear garden of no.30.
- 7.2.3. The appellants refer to the fact that the conservatory of no.30 was not taken into account. I note that there is still in excess of 12m between facades, notwithstanding that the orientation of the dwellings results in no overlooking into no.30.

- 7.2.4. I do not accept that the ground floor extension of the proposed design will have any repercussions on the occupants of no.34 having regard to the distance involved and the height of the extension.
- 7.2.5. I have read the Inspector's Report for the file reference PL06D.226938. I can find no reference to file PL06D.101998. I note that that proposal was for development in the rear garden of a dwelling and within a different jurisdiction and is therefore not comparable.
- 7.2.6. In conclusion, I am of the opinion that there will not be a significant adverse impact on the residential or visual amenities of the adjoining neighbours as a result of this development.

7.3. **Procedural Issues**

- 7.3.1. The appellant points out errors on the application form and drawings. There is a reference to a creche and a beauty salon on the application form which the appellants claim has caused confusion. The applicant claims that this was a typing error on the form. I am satisfied that there is no reference whatsoever to any change of use on the public notices, and therefore there is no application for such a change of use. Should the Board be of a mind to grant permission, I am satisfied that it will clearly be for a dwelling in the side garden of no.32 only.
- 7.3.2. With respect to errors on drawings, I consider these to be minor. The exact location of the front door in the projecting porch is incorrectly shown on the contiguous elevation. I consider that this is not material to the overall development. References to stud walls and ventilation are for information purposes and will be required for compliance with Building Regulations.
- 7.3.3. I am satisfied that third party rights were not compromised as a result of these errors.

7.4. **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 and a screening determination is not required.

7.5. Appropriate Assessment

Having regard to the nature and scale of development proposed and to 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.

8.0 Recommendation

I recommend that permission should be granted for the proposed development subject to conditions

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands in the current South Dublin County Development Plan 2016-2022, to the nature, scale and design 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 detract from the character of the area, and would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

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 Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the new and existing dwelling.

5. The footpath shall be dished at the road junction in accordance with the requirements of the planning authority. Details of the location and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The width of the vehicular entrance shall be reduced to a maximum width of 3.5m.

Reason: In the interest of visual amenity and pedestrian safety.

6. 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, protection of the existing trees in the grass verges during the construction phase, protection of the existing water mains, and

off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

7. 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.

Ciara Kellett
Senior Planning Inspector

24th September 2018