



An  
Bord  
Pleanála

## Inspector's Report ABP-303512-19.

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<b>Development</b>	Construction of dwelling on lands to side of dwelling, provision of 2 car parking spaces and all associated site works.
<b>Location</b>	125 Whitecliff, Rathfarnham, Dublin 16.
<b>Planning Authority</b>	South Dublin County Council.
<b>Planning Authority Reg. Ref.</b>	SD18A/0389.
<b>Applicant(s)</b>	Donal Lynch.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Donal Lynch.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> April, 2019
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located within the long and well established residential area of Whitecliff, Rathfarnham, in South County Dublin. Access to the site from the south, is via Taylor's Lane, the R113 a Regional Road, and over Whitechurch Road which runs in a north south direction, parallel to the Pearse Memorial Museum, and associated grounds, to the east of the road.
- 1.2. The proposed development site currently comprises the side garden area of no. 125 Whitecliff and access to the property is via a narrow drive way of approximately 20m in length from the north of the site. This driveway is approximately 2.5m at its narrowest and is partly shared with the adjacent property. The existing house on the site is a red brick semi-detached two storey property and has a stated floor area of 113.5m<sup>2</sup>. The existing house rises to a height of 7.251m and is located at an elevated location within the wider estate. The total site area is indicated at 0.05ha.
- 1.3. The site is bound to the east by an area of public open space with a number of existing mature trees located along the boundary. The site backs onto two semi-detached houses which face south onto the main access road to the Whitecliff estate.
- 1.4. On the date of my site inspection, I was unable to access the rear of the property as no-one was home and access to the side of the house is cordoned off by a high hedge.

## 2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two storey dwelling with habitable attic room (146.9m<sup>2</sup>) on lands to side of dwelling; provision of 2 additional car parking spaces to front of dwelling with all associated site works, all at 125 Whitecliff, Rathfarnham, Dublin 16.
- 2.2. The proposed house will have a floor area of 146.9m<sup>2</sup> and will rise to a ridge height of 8.204m. The houses will provide for 4 bedrooms and accommodation will be provided over three stories, with a box dormer window proposed to the rear to service the attic room. The house will have a red brick finish to match the existing houses in the Whitecliff estate.

2.3. The application was accompanied by the following documents:

- Plans, particulars and site notices including completed planning application form.
- Cover letter addressing the previous refusal on the site
- Arboricultural Assessment of the Trees and Tree Protection Measures report
- Letter of consent from site owner

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to refuse permission for the proposed development for the following four reasons:

1. Proximity of the proposed house to the existing trees – 650mm is considered insufficient to protect the root system of the existing mature trees.
2. Loss of trees would contravene the Green Infrastructure Network Policy G2 and associated Objective 9 of the Plan.
3. Insufficient details submitted in relation to surface water, foul water and drainage systems.
4. The proposed set back from the trees is not sufficient to ensure future structural integrity of the proposed dwelling structure from root damage, contrary to the zoning objective.

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

##### Planning Reports

The Planning Report from the Planning Authority formed the basis of the decision of the PA to grant permission for the proposed development. The report considered in particular, the planning history of the site, and concluded that the proposed set back from the existing boundary wall, and trees within the public open space, is inadequate and that the development would set an undesirable precedent. In addition, the report addressed issues relating to visual and residential amenity,

internal accommodation, access and parking, private amenity space, landscaping, green infrastructure services and drainage and AA.

The report concludes recommending that planning permission be refused.

Other Technical Reports<sup>1</sup>:

**Water Services:** Further information required in relation to SuDS and surface water drainage plans.

**Parks & Landscape Services:** The report recommends a number of conditions, all of which require agreement prior to the commencement of any development on the site. In addition, the report requires that an Arboricultural Agreement, together with a bond in the amount of €22,304.00 be lodged with the Planning Authority for Trees and Hedgerows, to ensure the protection of trees on and immediately adjacent to the site.

Prescribed Bodies

**Irish Water:** Concerns raised in relation to lack of information and details relating to water services and further information required.

Third Party Submissions

None.

## 4.0 Planning History

**Subject site:**

**PA ref SD18A/0123:** Planning permission refused for a detached dwelling on the site. The development includes the removal of side wall and part of roof of existing car port and the house had a stated floor area of 163.3m<sup>2</sup>. The reasons for refusal are stated as follows:

1. The proposed development, would result in the removal of a significant number of sycamore trees along the eastern boundary and therefore, would seriously injure the amenities of property in the vicinity. As such, the proposed

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<sup>1</sup> The Board will note that the Planning Officers report refers to a Roads Report. There is no Roads Report noted in relation to the current application and the reference is likely to the report submitted to the previous application relating to the site, SD18A/0123 refers.

development would materially contravene the 'RES' zoning objective of the area, as set out in the South Dublin County Development Plan 2016-2022, the objective for which is 'to protect and / or improve Residential Amenity' and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would set an undesirable precedent for other similar development, which would in themselves and cumulatively, be harmful to the biodiversity and ecological environment and visual and residential amenities of the area and therefore would be contrary to the proper planning and sustainable development of the area.

**Pre-Planning Consultation:**

The Board will note that a pre-planning consultation was held in relation to the proposed development.

## **5.0 Policy Context**

### **5.1. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

### **5.2. Development Plan**

The South Dublin County Development Plan 2016-2022 is the relevant policy document pertaining to the subject site and includes a number of policies and objectives which are relevant, including those relating to core strategy, residential development and development standards, water services, roads and transport, green infrastructure and protected structures.

The subject site is located on lands which has the zoning objective RES R2 - to protect and/or improve residential amenity.

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’. The following policies are also considered relevant:

- 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’.
- 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’.
- H17 Objective 5 states ‘To ensure that new development in established areas does not impact negatively on the amenities or character of an area’.

In addition, section 11.3.2 of the Plan deals with Residential Consolidation, with section (ii) dealing with Corner/Side Garden sites. This section states:

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;

### **5.3. Natural Heritage Designations**

The site is not located within any designated site. The closest European Site is the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and South Dublin Bay SAC, (site code 000210) located approximately 5km to the east. In addition, the Glenasmole Valley SAC (Site Code 001209) is approximately 6km south-west, the Wicklow Mountain SAC (Site Code 002122).5.5km south and the Wicklow Mountain SPA (Site Code 004040) approximately 5.5km south of the site. The Dodder Valley pNHA (site code 000991) is located approximately 4km to the south west of the site.

### **5.4. Environmental Impact Assessment**

Having regard to the nature of the subject site, together with the scale of the proposed development, 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.

## **6.0 The Appeal**

This is a first party appeal against the decision of the planning authority to refuse permission for the proposed development.

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

The submission includes a background and context to the proposed development and addresses the planning history of the site as well as the current reasons for refusal. The grounds of appeal are summarised as follows:

- In the first refusal for the development of the site, the Planning Authority was obliged to set out all of the reasons for refusal. The current decision includes additional reasons relating to water services.

- In order to address the reasons for refusal in relation to trees, an Arborist was retained and the development was amended to provide for 0.65m separation between the building and the boundary.
- The Parks and Landscape Department did not object to the proposed development, recommending permission subject to conditions, which are acceptable to the applicant.
- The Planning Officer did not consider that the separation distance was sufficient which is inconsistent with the assessment of the Parks and Landscape Department.
- The submitted reports have demonstrated that no damage will occur to the existing trees and therefore, reason no. 2 has been overcome.
- There will be no impact to the trees, therefore no visual impact will arise.
- It is considered that the planning authority assessment is flawed.
- The water service issues raised could have been addressed by way of further information. The grounds of appeal seek to address these issues.

The appeal includes a number of enclosures and the appeal concludes seeking the permission be granted.

## **6.2. Planning Authority Response**

The Planning Authority responded to the first party appeal advising that it confirms its decision and that the issues raised in the appeal have been covered in the planner's report.

## **6.3. Observations**

None.

## **6.4. Further Responses**

None.



## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. General Compliance with National Guidelines & Standards and the South Dublin County Development Plan
2. Impact on trees
3. Site Suitability
4. Residential Amenity
5. Other Issues
6. Appropriate Assessment

### 7.1. Compliance with National Guidelines & Standards and the South Dublin County Development Plan:

Given that the subject site is located on lands zoned for residential purposes, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The Sustainable Residential Development in Urban Areas (DoEHLG, 2009) guidelines updated the Residential Density Guidelines for Planning Authorities (1999) and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines and in this regard, I have no objection to the proposed development in principle.

In terms of compliance with the South Dublin County Development Plan, the Board will note that the subject site is zoned RES, with the objective to protect and improve residential amenity. Section 2.4.0 of the Plan deals with Residential Consolidation – Infill, Backland, Subdivision and Corner Sites and states that ‘In established residential areas sustainable intensification can be achieved through infill

development, the subdivision of larger houses, backland development and the development of large corner sites’.

Policy H17 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.

In terms of the above, together with the associated objectives relating to Policy H17, I am satisfied that the principle of the proposed development is acceptable.

## **7.2. Impact on Trees:**

Chapter 11 of the Plan deals with implementation and sets out certain development management standards for residential development. In terms of the previous proposal, the Board will note that there were a number of issues raised by the Planning Authority, which led to the refusing of the development. In particular, the constraints of the site have the potential to significantly impact on the existing trees which adjoin the site on the public open space area to the east. The original proposal for the site fell on this issue and it was considered that if permitted, the development would impact on the trees, and subsequently, the biodiversity of the area. The original Parks Department report noted that the root systems of the trees were likely to run under the boundary wall. In order to address this issue, the applicant has now proposed a set back from the wall of 0.65m.

I have considered the information presented, together with the Arborist Report and the Parks Department comments in relation to the protection of the trees, and I note that some pruning will be carried out to accommodate the proposed house. In terms of the proximity of the trees to the boundary and the proposed wall of the house, it is submitted that the roots are restricted from entering the site due to the presence of the wall. It is further submitted that even if the roots did penetrate the wall, the size, weight and soil structure would not cause structural damage to the house. A trial hole was dug on the site to establish any encroachment of roots into the site.

In terms of my site visit, I note that the trees were not in full bloom and therefore the actual impact of the overhang into the proposed site is not as pronounced. From the submitted Arboricultural Assessment Plan, it would appear that the crowns of a

number of the trees, located on the public open space, overhang the subject site from between 1m and 3m. In this regard, and while I acknowledge the information submitted in support of the proposed development, I would have concerns regarding the protection of the root system of the trees. That said, I do not consider that a house cannot be accommodated on the site, rather, I recommend that the house be relocated a minimum of 1m from the boundary wall. This will require amendments to the site layout plan and house layout plan. This issue can be dealt with by way of condition.

### **7.3. Site Suitability:**

In terms of site suitability, the Board will note that it is intended to connect the house to public services in accordance with the previous permission. The Water Service Section of SDCC required the submission of further information. However, as the application was refused, the appellant submitted the requested information as part of the appeal. In principle, I have no objection to the proposed development and consider that water services issues can be appropriately dealt with by way of condition.

In terms of the private open space, the development, if permitted, will result in the provision of a private open space area of approximately 72m<sup>2</sup> for the proposed house and will retain 86m<sup>2</sup> for the existing house. The development would accord with the minimum private open space required for a four bedroomed house and as such, can be considered acceptable.

In terms of the proposed development site, I would consider that there are constraints relating to the access to the site. The existing driveway, which is to be shared with the existing house on the site, is very narrow, reducing to 2.5m at its narrowest. The construction of the house to the side of the existing house will result in the loss of the existing front garden area to accommodate car parking for the existing house. Two car parking spaces are proposed for the new house, however it is unclear if space exists for cars to turn within the site and exit facing forward. This would result in cars potentially reversing onto the road, which is not ideal. However, given the location of the entrance within a cul-de-sac estate, I am generally satisfied that the development can be accommodated. There is an outstanding issue in relation to site boundaries and future ownership of the driveway. The subject appeal

site boundary includes the existing house and driveway and no delineation or indication as to the ownership of the driveway has been presented, or how that might be divided in the event of permission being granted. That said, I have no objections to the proposed development in principle.

#### **7.4. Residential Amenity**

In relation to the overall height and scale of the proposed development, the Board will note that the ridge height rises above that of the existing house on the site by 1m. In addition, due to the site levels, the finished floor level of the adjacent house to the north, no. 124 Whitecliff, is a further 1.1m below the proposed house. In this regard, the ridge of the propose house will rise approximately 2.6m above that of no. 124 Whitecliff. However, in the context of the site, I am satisfied that the house can be accommodated on the site. Should the Board be minded to grant permission in this instance, I recommend that the existing boundary hedge located to the south of the boundary with no. 124 Whitecliff should be retained to ensure the protection of privacy and the residential amenity of the existing house.

The proposed house provides for accommodation over three floors and I have no objections in principle to the proposed design overall. The design provides for a box dormer on the rear roof elevation to serve the attic room. In terms of guidance, I note the South Dublin County Council Development Plan and the House Extension Design Guidelines which deal with dormers and encourage the avoidance of dormer windows that are over dominant in appearance or give the appearance of a flat roof. Should the Board be minded to grant permission for the proposed development, the proposed box dormer to the rear of the house could be replaced with a smaller dormer or roof lights. This would reduce any overbearing potential of the development on the adjoining property owners. However, given the context of the site and the existing boundaries with adjoining properties, I am satisfied that the development is acceptable.

The proposed house will be located approximately 19.2m from the rear walls of the house to the south with the first floor wall being located a further 2.7m away. I am satisfied that the development, if permitted would not give rise to any significant overlooking of the existing properties to the south. Given the orientation of the site, I

am satisfied that the development is unlikely to result in any overshadowing of the adjoining properties.

In terms of the design and overall layout of the proposed house, I am generally satisfied that the development is acceptable and would not significantly impact upon the existing residential or visual amenities of the area or surrounding properties. In terms of the residential amenity of future occupants, I am satisfied that the development is appropriate and acceptable.

#### **7.5. Other Issues:**

##### **Roads & Traffic:**

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The proposed development site accesses onto a residential estate road.

Having regard to the nominal scale of the proposed development, together with the fact that the proposed development seeks to provide for adequate car parking to serve the house, as well as the existing house, I am generally satisfied that the development is acceptable. If permitted, I am satisfied that the development will not give rise to any significant impact on the surrounding road network by reason of traffic generated. In addition, I am satisfied that if permitted, the development would not result in a significant traffic hazard for existing residents in the area or would not adversely affect the existing residential amenities of the existing residents by reason of the additional traffic resulting from the proposed development.

##### **Development Contributions & Bonds:**

The proposed development attracts a development contribution condition.

The Board will note that the Parks Department required that a Tree and Hedgerow Bond in the amount of €22,304.00, be lodged with the Planning Authority, to ensure the protection of trees on and immediately adjacent to the site. I also note the recommended conditions in relation to the protection of trees and biodiversity and in

principle, I have no objection to the inclusion of a bond as a condition of planning permission should the Board be so minded.

## **7.6. Appropriate Assessment**

The site is not located within any designated site. The closest European Site is the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and South Dublin Bay SAC, (site code 000210) located approximately 5km to the east. In addition, the Glenasmole Valley SAC (Site Code 001209) is approximately 6km south-west, the Wicklow Mountain SAC (Site Code 002122).5.5km south and the Wicklow Mountain SPA (Site Code 004040) approximately 5.5km south of the site. The Dodder Valley pNHA (site code 000991) is located approximately 4km to the south west of the site.

Having regard to the location of the subject site immediately adjacent to an established residential area, together with the nature and scale of the proposed development on zoned lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

## **8.0 Recommendation**

8.1. I recommend that planning permission be granted for the proposed development.

## **9.0 Reasons and Considerations**

Having regard to the residential zoning of the site in the South Dublin County Development Plan 2016-2022, to the nature and scale of the proposed infill development and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the surrounding area, 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.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 26<sup>th</sup> day of October, 2018, 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. The proposed development shall be amended as follows:-
  - (a) The proposed house shall be located no less than 1m from the eastern site boundary.
  - (b) The existing boundary hedge located to the south of the boundary with no. 124 Whitecliff shall be retained

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the protection of trees on and immediately adjacent to the site and in the interests of proper planning and sustainable development of the area.

3. A comprehensive Tree Report shall be prepared to comply with the requirements of the Parks & Landscape Services / Public Realm Section of South Dublin County Council, and which includes the following:
  - (a) Tree Survey which clearly outlines any pruning works required
  - (b) Tree Protection Plan
  - (c) Tree Constraints Plan

(d) Arborist Method Statement

(e) Arboricultural Agreement

The Report shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.

**Reason:** In the interests of the protection of trees on and immediately adjacent to the site.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable waste management.

6. Site development and building works shall be carried out only between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 hours and 13.00 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 amenities of property in the vicinity.

7. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other



security to ensure the protection of trees on and adjacent to the site, coupled with an agreement empowering the local authority to apply such security or part thereof for the appropriate and reasonable replacement of any trees / hedgerows which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory protection of the trees and hedgerows on or immediately adjoining the site.

8. 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.

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A. Considine  
Planning Inspector  
12th April, 2019