



An
Bord
Pleanála

Inspector's Report

ABP-304854-19

Development	Demolition of Garage/Store and construction of Single storey Detached one Bedroom Bungalow to rear; upgrading of Vehicular Entrance to site with Revision to Boundary Wall Height and all associated site works.
Location	108/108A, Wheatfields Road, Dublin 20.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD19A0132
Applicant(s)	Brian and Edwina Fowler.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Brian and Edwina Fowler.
Observer(s)	Brian and Maeve Brophy.
Date of Site Inspection	11 th September 2019.
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located along Wheatfield Road, in a residential area characterised by two storey terraced dwellings in Palmerstown, Dublin 20.
- 1.2. The appeal site is located to the rear of two end of terrace residential properties house no's 108 and 108A, the latter of which is an infill house constructed on a corner site. Both houses include driveways with parking to the front, while house no. 181A includes a two-storey rear extension.
- 1.3. The subject site comprises an existing lean-to double garage and concrete yard area and part of the rear gardens located at the eastern end of both plots. It is already subdivided in part from the rear gardens of both houses by existing boundary walls which include pedestrian openings from each garden to the yard area.
- 1.4. A separate vehicular entrance to the appeal site is located along the southern boundary to the rear of house no. 181A from Wheatfield Road. The garages are accessed from the concrete yard via two double doors.
- 1.5. The garage immediately abuts the northern side boundary of the adjoining house no. 106 to the north, the laneway to the east, and side boundary of house no. 108A to the south.
- 1.6. The stated area of the appeal site is 0.00144ha.

2.0 Proposed Development

- 2.1. Permission is sought to demolish the existing garage/store which has a stated floor area of 60sqm. It is proposed to subdivide the rear gardens of both house nos. 108 and 108A to form a larger plot area.
- 2.2. It is proposed to construct a single storey detached house with a stated floor area of 74sqm. It comprises a kitchen/dining/lounge area, bedroom with ensuite, and WC, with first floor attic. The proposed dwelling is set back from all site boundaries and has a pitched roof with a ridge height of 5.5m.
- 2.3. The front/southern elevation of the proposed house addresses Wheatfield Road. It includes a double height window serving the kitchen area, a narrow window serving

a shower room and larger bedroom window. Two rooflights are also proposed in the southern roof slope.

- 2.4. The side/eastern elevation to the laneway is blank, while the rear/northern elevation includes two windows and double doors serving the kitchen/dining/living area which also provides access to the private rear garden which has a stated area of 33sqm.
- 2.5. The side/western elevation is largely blank save for the entrance door to the house and a narrow bathroom window.
- 2.6. It is proposed to provide new vehicular access gates and boundary wall of 0.8m stepping up to 1.8m along the southern boundary Wheatfield Road.
- 2.7. It is also proposed to demolish the existing rear garden boundary walls to the rear of house no. 108 and 108A and erect a new boundary wall set back approx.. 3.5m from the existing rear boundary.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to **refuse** permission for the following reasons:

1. *The private amenity space for the proposed dwelling at 33sq.m. would fall significantly short of requirements as set out in Section 11.3.1(iv) 'Dwelling Standards', Table 11.20, of the County Development Plan 2016-2022. The proposed development would, therefore, provide inadequate residential amenity for future occupants of the proposed house and would materially contravene the 'RES' zoning objective for the area as set out in the County Development Plan, which seeks 'to protect and/or improve residential amenity'.*
2. *The residential amenity of the occupants of the proposed single storey dwelling would be affected by significant overbearing and overlooking impacts by virtue of the proximity of the dwelling to two storey dwellings a maximum of 11m and minimum of 8.8m to the west. The proposed development would, therefore, seriously injure the residential amenities of the area, would conflict*

with the objectives of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3. *The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, seriously injure the residential and visual amenities of the area, depreciate the value of property in the vicinity, and be contrary to the proper planning and sustainable development of the area.*
4. *No watermain layout drawings or foul drainage layout drawings were submitted. As such, it is not possible to assess the proposed development with respect to compliance with Irish Water standard details.*

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 11/6/2019)

Basis for planning authority decision. Include:

- Development of a dwelling is permitted in principle.
- The internal floor area of the proposed dwelling complies with the minimum requirements.
- The area of private amenity space does not comply with minimum standards set out in the county Development Plan and would be of poor quality, and therefore injurious to the residential amenity of the occupant and therefore not in accordance with the 'RES' zoning objective.
- The proposed dwelling does not comply with Housing (H) Policy 17 Objective 2 of the County Development Plan as it does not comply with the safeguards set out in Section 11.3.2(iii) Backland Development of the plan.
- Having regard to the design of the proposed dwelling and proximity to two storey dwellings including a dwelling with a two-storey rear extension, and separation distances, it is considered that the residential amenity of the occupants of the proposed dwelling would be affected by significant overlooking and overbearing impacts contrary to the zoning objective.

- Notwithstanding the report of the Roads Department, but having regard to the recommendation above, it is considered that permission should be refused.
- Notes that no report was received from Water Services and the report of Irish Water, but having regard to the recommendation above, it is considered that permission should be refused.
- Recommends that permission be refused.

3.2.2. Other Technical Reports

Roads Department: No objection subject to requirements.

Parks and Landscape Services: Recommends refusal.

3.3. Prescribed Bodies

Irish Water: Recommends further information in relation to watermains and drainage layout drawings.

3.4. Third Party Observations

One third party submission was received by the planning authority from Brian and Maeve Brophy the owners of the adjoining house no. 106 Wheatfield Road. Issues raised can be summarised as follows;

- Over development of the site
- Separate site notice in the front garden of 108 was not erected
- Design and layout of the proposed dwelling
- Loss of privacy
- Noise and disturbance

4.0 Planning History

P.A.Reg.Ref.SD05A/0699: Permission **granted** November 2005 for a two-storey dwelling with vehicular access adjoining.

P.A.Reg.Ref.SD04A/0778: Application for permission for two storey detached dwelling with vehicular access, adjacent to existing dwelling **declared withdrawn** July 2005.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

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. **Chapter 2** refers to Housing

Section 2.3.1 refers to *Residential Design and Layout*.

Housing **Policy H11** states that '*It is the policy of the Council to promote a high quality of design and layout in new residential development to ensure a high-quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development*'.

Section 2.3.5 refers to *Privacy and Security*.

Housing **Policy H15** states that '*It is the policy of the Council to promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.*'

Section 2.4.0 of the Development Plan considers *Residential Consolidation – Infill, Backland, Subdivision and Corner sites*.

Housing **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*'.

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’.*

5.1.3. **Chapter 11** refers to Implementation

Section 11.3.1 (iv) specifically refers to *Dwelling Standards*

Table 11.20 states that the minimum space for one-bedroom houses is 50sq.m. The required private open space for a one-bedroom house is 48sqm, and 60sqm for a three-bedroom house.

Section 11.3.2 (i) specifically refers to *Infill Development*. It states (inter alia):

Development on infill sites should meet the following criteria: Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual; A site analysis that addresses the scale, siting and layout of new development taking account of the local context should accompany all proposals for infill development. On smaller sites of approximately 0.5 hectares or less a degree of architectural integration with the surrounding built form will be required, through density, features such as roof forms, fenestration patterns and materials and finishes. Larger sites will have more flexibility to define an independent character; Significant site features, such as boundary treatments, pillars, gateways and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street.

Section 11.3.2 (iii) specifically refers to *Backland Development*. It states that the design of development on backland sites should meet the criteria for infill development in addition to the following criteria: *Be guided by a site analysis process in regard to the scale, siting and layout of development; avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area; development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking; access for pedestrians and vehicles should be clearly legible and, where appropriate, promote mid-block connectivity.*

5.2. Natural Heritage Designations

5.2.1. There are no designated European sites within the vicinity.

5.3. EIA Screening

5.3.1. Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, 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

6.1. Grounds of Appeal

A first party appeal against the decision to refuse permission by the planning authority has been lodged by pdc architectural, on behalf of the applicant. The main grounds of the appeal can be summarised as follows:

Reason for Refusal No. 1

- Contend that the open space provision is sufficient on the basis of exempted development regulations which allow a ground floor extension on the basis of a rear garden not less than 25sqm.s and other Council guidelines which require 12/15ms per bed space.

Reason for Refusal No. 2

- Assert that given that there are no first-floor windows proposed and that a separation distance of 11m has been provided between the gable of the proposed development and no 108A Wheatfield Road, there will be no overlooking of that property.

Reason for Refusal No. 3

- Claims that precedent for similar developments have already been established and refers to three examples permitted under P.A.Reg.Ref, SD11A/0219, SD03A/0921, and SD06A/0865, all of which are located in Palmerstown.

Reason for Refusal No. 4

- Disputes that the report from Irish Water recommended that permission be refused, and that the watermain and drainage details could have been requested by way of further information or dealt with by way of a condition.

6.2. Planning Authority Response

Confirms decision – reference to planner’s report.

6.3. Observations

An observation to the appeal was lodged by Brian and Maeve Brophy, the adjoining residents of no. 106 Wheatfield Road, and can be summarised as follows;

- *Private Open Space* – Failure to meet the required development plan standards should be upheld. Proposed development will impact negatively on the use and enjoyment of their private open space particularly as no. 106 is located mid terrace.
- *Residential Amenity* – The proposed house would appear overbearing when viewed from no.106 and would be out of character with the predominant style of housing in the area which is of terraces.
- *Precedent* – Dispute that the examples given in the appeal are similar to the current proposal and should not be relied on as setting a precedent. The proposed bungalow would be the third dwelling on the original site. Reference a similar development at 88 Palmerstown Avenue where permission was refused by the planning authority under P.A.SD19A/0133 in the same week.

6.4. Further Responses

None.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle of Development/Compliance with Development Plan policy
- Residential Amenity
- Precedent
- Water and Drainage
- Material Contravention
- Appropriate Assessment

7.2. Principle of Development/Compliance with Development Plan policy

7.2.1. As per the South Dublin County Development Plan 2016 – 2022 the site is within an area zoned 'RES', the objective of which is 'to protect and/or improve residential amenity'. Planning policy supports development of dwellings in backlands or corner/side gardens, subject to appropriate safeguards and standards.

7.2.2. Reason for refusal no. 1 refers to non-compliance with Section 11.3.1(iv) 'Dwelling Standards', and specifically minimum private amenity space standards for houses as set out in Table 11.20, of the County Development Plan. The reason for refusal also states that the proposed development, which would fail to provide adequate residential amenity for future occupants would materially contravene the 'RES' zoning objective for the area.

7.2.3. While the principle of backland development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development is in accordance with development plan standards and zoning objective.

7.2.4. In this regard, I would note that the area is characterised by well-established two storey terraced suburban type housing.

7.2.5. The original end of terrace and corner house no. 108 was previously subdivided to accommodate an additional terraced house to the side house no 108A, and thereby extending the terrace of 8 houses to a terrace of 9.

- 7.2.6. The proposed development results in a further subdivision of the original overall plot, and the construction of a dwelling to the rear of both house no. 108 and 108A. It also relies on a vehicular access and parking area to the rear of house no. 108A, and private amenity space to the rear of house no 108 which adjoins the rear garden of house no 106. This results in amenity impacts on the existing dwellings within the terrace.
- 7.2.7. It is submitted by the applicant that a sufficient area of private amenity space has been provided for the one bedroomed unit and should be considered favourably by the Board.
- 7.2.8. The area of private amenity space proposed is north facing, is approx. 3m in depth, 11m in length, adjoins the rear garden and garage of house no 106 to the north, the laneway to the east, and the rear garden of house no.108 to the west.
- 7.2.9. Having regard to the significant shortfall in the quantum of and poor quality of the private open space due to its orientation and usability, I do not accept the assertion made by the applicant that a reduced area of private amenity space is acceptable in this instance.
- 7.2.10. The Parks Department of the planning authority recommended a refusal of planning permission citing in particular concerns regarding non-compliance with Housing Policy H11 Residential Design and Layout Objective 1.
- 7.2.11. I am satisfied, that the quantum, quality and orientation of the open space proposed, would result in a substandard form of development, which would be contrary to the zoning objective which seeks 'to protect and/or improve residential amenity' and to Housing Policy H11 of the County Development Plan.
- 7.2.12. I am satisfied, therefore, that the first reason for refusal should be upheld.

7.3. Residential Amenity

- 7.3.1. Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the

need to provide additional residential development at this location. I propose to address such matters in the following sections.

- 7.3.2. Reason for refusal no. 2 refers to the proximity of the proposed single storey house to the adjoining two storey dwellings which would result in significant overbearing and overlooking impacts and therefore, seriously injure the residential amenities of the area.
- 7.3.3. The floor area of the proposed house is 74sq.m, is relatively generous in scale, and complies with the provisions of the Quality Housing for Sustainable Communities – Best Practice Guidelines, which require a minimum floor area of 44sqm for a one-bedroom dwelling.
- 7.3.4. The layout of the proposed single storey house is roughly 'L' shaped, backs onto the northern and eastern boundaries with adjoining dwellings and laneway and is orientated in a southerly direction. The overall site area with a stated area of 144sqm is very restricted, and this has necessitated the proposed house being located close to adjoining site boundaries.
- 7.3.5. The elevation along the northern boundary is 9.3m in length and includes double glazed sliding doors and two windows to the kitchen/dining/living area allowing access to the rear garden. It is set off the northern boundary with the rear garden and shed of house no. 106 Wheatfield Road by approx. 3m.
- 7.3.6. The elevation along the eastern boundary is 8.5m in length and is set off the eastern boundary with the laneway by 0.8m and is a blank elevation. The elevation along the southern boundary is 6.8m in length and is stepped off the boundary with the public footpath by 0.9m increasing to 1.9m at the vehicular entrance to the house.
- 7.3.7. The elevation along the western boundary is 8.5m in length and is set off the rear garden boundary walls of no. 108 and 108A Wheatfield Road by 0.9m and 3.4m respectively. The elevation closest to no. 108 Wheatfield Road is a blank elevation, while the section stepped away from no 108A Wheatfield Road provides room for the proposed car parking space and the elevation includes the main entrance door and a bathroom window.
- 7.3.8. As already outlined in section 1 above the subject site is flanked by a terrace of three no. two storey houses to the west. A separation distance of 8m is provided from the

two-storey rear extension of house no. 108A, increasing to 11m at first floor level from the rear of no. 108A and 108 Wheatfield Road.

- 7.3.9. The Parks Department of the planning authority recommended a refusal of planning permission citing in particular concerns regarding non-compliance with Housing Policy H15 Privacy and Security.
- 7.3.10. I would further note a shadow analysis or daylight/sunlight study did not accompany the planning application or the first party appeal. Some supporting analysis could have been prepared by the applicant in support the assertion that the proposed single storey house would not be negatively impacted by the adjoining two storey terraced houses in terms of overbearing and overshadowing impacts.
- 7.3.11. On the basis of the foregoing, I fully concur with the view of the planning authority that the residential amenity of the occupants of the proposed single storey dwelling would be affected by significant overbearing and overlooking impacts by virtue of the proximity and orientation of the proposed dwelling to two storey terraced dwellings that the proposed development would, therefore, seriously injure the residential amenities of the area.
- 7.3.12. I am satisfied, therefore, that the second reason for refusal should be upheld.

7.4. Precedent

- 7.4.1. Reason for refusal no. 3 refers to the undesirable precedent for other similar developments.
- 7.4.2. The applicant has cited to a number of examples of similar backland developments and asserts that precedent already exists in the area. However, in my opinion the most relevant example is that located to the rear of house no. 117 Palmerstown Avenue, granted planning permission under P.A.Reg.Ref.SD11A/0219. I have reviewed this application and the observation to the appeal, and visited the aforementioned site, and would make a number of points regarding a comparison between the two developments.
- 7.4.3. I accept that the permitted dwelling has a similar layout and design, floor area of 73.2sqm and ridge height of 5.495m to the current proposal. However, in contrast to

the current proposal the site area was larger, it provided 48sqm of private amenity space which benefits from a a southern orientation.

7.4.4. Notwithstanding the above and while noting that each application is considered on its merits, I am of the view that to permit this development would not result in a constructive precedent.

7.4.5. I am satisfied, therefore, that the third reason for refusal should be upheld.

7.5. **Water and Drainage**

7.5.1. Reason for Refusal no. 4 refers to the absence of details and specifically layout drawings in relation to watermain and foul drainage proposals. The applicant contends that this information could have been requested by way of further information as recommended by Irish Water. I do not accept however, that details in relation to water supply and foul drainage could have been dealt with by way of condition, as suggested in the grounds of appeal.

7.5.2. I accept the position of the planning authority in not seeking further information to address these issues and concur that the substantive issues in this case is the principle of development.

7.6. **Material Contravention**

7.6.1. As in this instance where the planning authority has decided to refuse permission on the grounds that the proposed development materially contravenes the development plan, the Board may only grant permission where at least one of four criteria is met.

7.6.2. In terms of the four criteria I submit that:

(a) The proposed development is not of strategic or national importance.

(b) The proposal does not accord with development management standards, and such considerations would be subservient to the requirements of the zoning objectives for the area. As such I do not consider that there are conflicting objectives in the development plan and that the objectives are clearly stated insofar as the proposed development is concerned.

(c) There is no specific justification for the proposal in terms of the regional planning guidelines for the area or any relevant policy of the Government.

(d) As noted I am not aware of any change to the pattern of development or comparable permissions granted in the area since the making of the development plan.

7.6.3. I therefore consider that the Board is precluded from granting permission in this instance.

7.7. Appropriate Assessment

7.7.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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

8.1. It is recommended that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

The site is located in an area zoned 'RES' in the current South Dublin County Development Plan 2016 – 2022 in which it is an objective 'To protect and/or improve residential amenity'. The proposed backland development on a restricted site falls significantly short of the requirements for private amenity space as set out in Section 11.3.1(iv) 'Dwelling Standards' Table 11.20 of the Development Plan. The proposed development would provide inadequate residential amenity for future occupants of the proposed house, set an undesirable precedent for other similar developments and would, therefore, materially contravene the development objective indicated in the development plan for the zoning of the land and thus would be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Planning Inspectorate

13th September 2019