



An
Bord
Pleanála

Inspector's Report

ABP-306964-20

Development	Demolition of structures and construction of house and garage, widening of vehicular entrance, new gate and all associated site works.
Location	Muckross Avenue, Perrystown, Dublin 12
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0403
Applicant(s)	Josh Linton
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Josh Linton
Observer(s)	Terry & Frances Doyle
Date of Site Inspection	29/05/2020
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The site is located in a residential area of Perrystown between Muckcross Avenue and Rockfield Avenue and is approximately 6km south west of Dublin City Centre. The site is accessed by both pedestrian and vehicles via a laneway off Muckcross Avenue and is located behind houses facing Muckcross Grove and Muckcross Avenue. The laneway is c.4m wide at the entrance narrowing to c.3.4m as the laneway divides in two around the site.
- 1.2. The laneway serves the site as well as a large number of garages and private rear gardens/properties. The site is mostly triangular in shape and is currently bound by c. 3-3.5 m high boundary walls and a high entrance gate at the point where the laneway diverges around the site. The site has a stated site area of 0.0805ha.
- 1.3. At the time of inspection there was a large number of minibus style vehicles parked within the site. There are small shed like structures along the east boundary and in the south west corner of the site. These structures appear to offer administration and basic maintenance functions to the minibus vehicles on the site and are not overly visible from the laneways.
- 1.4. The site can be characterised as backland and brownfield in nature.

2.0 Proposed Development

- 2.1. The applicants have applied for-
 - Demolition of the existing structures on site (total 98sq.m)
 - the construction of a single storey dwelling (270sq.m) with associated garage (20sq.m);
 - connection to mains water and public sewer;
 - widening of the existing vehicular entrance;
 - new gate
 - and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

On the 25/02/2020 South Dublin County Council refused for application for the following reasons-

1. The generation of additional traffic both vehicular and pedestrian by the proposed development on the narrow unlit laneway, the lack of facilities or capacity to provide facilities for the cyclist/pedestrian traffic generated by the development and the lack of visibility due to high walls and the narrowness of the laneway combine to endanger public safety by reason of a traffic hazard.
2. Having regard to the absence of sufficient detail relating to surface water and foul drainage and water supply the Planning Authority is not satisfied that the applicant has demonstrated that the proposed development can be achieved in accordance with the requirements of Irish Water and Surface Water Drainage.
3. Having regard to the design of the proposed development, it would be considered to have an adverse impact in terms of residential amenity of adjoining properties and for future occupants, as the minimum standards for storage set out in the 'Quality Housing for Sustainable Communities, Best Practise Guidelines' have not been achieved and would be contrary to the Development Plan zoning 'RES' to protect and/ or improve residential amenity. The proposal would be seriously injurious to the residential amenity of the area and of property in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Report dated 24/02/2020- The Planner's Report considered that the proposed development would-

- have a significant adverse impact in terms of residential amenity which would be contrary to the RES zoning objective for the site
- the development would endanger public safety by reason of a traffic hazard

- the proposal would be seriously injurious to the residential amenity and of property in the vicinity
- The PA also considered that in the absence of sufficient details relating to surface water, foul drainage and water supply they could not be satisfied that such requirements could be achieved in accordance with Irish Water and Surface Water Drainage.

3.2.2. **Other Technical Reports**

Water Services- Additional Information (AI) required in relation to the proximity of underground surface water attenuation and building foundations and SUDs proposals.

Roads Department- width of laneway not sufficient for two way traffic, no provision of pedestrian footpath and public lighting, refusal recommended.

Enforcement- No open enforcement file

3.3. **Prescribed Bodies**

Irish Water- Further Information (FI) required in relation to Pre-Connection Enquiry for water supply and foul connection.

3.4. **Third Party Observations**

The Planning Authority received third party submissions from the following-

- Councillor Carly Bailey
- Freda Hill
- Connie Nolan
- Carmel O'Byrne
- Terry and Frances Doyle
- Edmund and Shirley Ward

The grounds of objection were generally all similar and can be summarised as-

- Site on laneway at back of houses, no road frontage, unsuitable,
- Access via narrow laneway which is unlit and has no footpath. Danger for pedestrians and cyclists. Two way traffic not possible, congestion, High garden walls reduce visibility for pedestrians

- Not possible for refuse trucks and emergency services to access site
- Risk to neighbouring properties, possible hampering of access to existing garages
- Access to water and drainage problematic
- Overlooking of neighbouring houses
- Lack of reference number on public notice
- Additional noise from bins being emptied at Muckcross Avenue, noise, dirt and dust, potential damage to property during construction
- Laneway floods during heavy rain
- Poor water pressure in area
- Site is a builder's compound.

4.0 Planning History

- SD16A/0415- Permission granted for change of use of existing yard from a builder's providers yard to a car park for storage of mini vans used as school buses.
- Condition 2 states- *'No more than 16 mini vans used as school buses shall be stored on the site. The use shall only be for parking of buses and shall not include servicing of any vehicles.'*
- SD16A/0365 Invalid Application
- SD14A/0126- Permission refused for four dwelling units and connection to public services. Refusal reasons can be summarised as-
1. Generation of additional traffic both vehicular and pedestrian on the narrow unlit laneway, the lack of facilities or capacity to provide facilities for cyclist and pedestrians and the lack of visibility due to high walls and narrowness of laneway would endanger public safety by reason of a traffic hazard
 2. Overall bedroom floor areas would be significantly less than the minimum requirements for two storey houses. The

proposal would be a substandard from of development and unacceptable to the residential amenity of future residents. The proposal would materially contravene SDCC's Development Plan and contrary to proper planning.

The Planner's Report also refers to the following history at the site-

89A/1484- Permission refused for retention of portacabin for use as ancillary offices and radio aerial at existing builders depot.

Refusal reason summarised as-

1. Proposed development materially contravenes the residential zoning objective and would be seriously injurious to the amenities of residential property in the vicinity

5.0 Policy Context

5.1. Development Plan- South Dublin County Council Development Plan 2016-2022

Zoning- The site is zoned RES- Existing Residential with an objective '*To protect and/or improve residential amenity*'. According to Table 11.2 of the Development plan the proposed 'Residential' (construction of a dwelling) is '*Permitted in Principle*' within this zoning objective.

The following Development Plan policies are relevant-

- Housing Policy 6 Sustainable Communities
- Housing Policy 7 Urban Design in Residential Developments
- Housing Policy 13 Private and Semi-Private Open Space
- Housing Policy 14 Internal Residential Accommodation
- Housing Policy 15 Privacy and Security
- Housing Policy 17 Residential Consolidation-
- Heritage, Conservation and Landscapes (HCL) Policy 5

Each policy is underpinned by a number of pertinent Objectives.

Chapter 11 sets out Development Standards and criteria that arise out of the policies and objectives including-

- 11.2.7 Building Heights
- 11.3.1 Residential
- 11.3.2 Residential Consolidation
- 11.4.2 Car Parking Standards

Table 11.24 sets the Maximum Parking Rate for Residential Development.

5.2. Ministerial Guidelines

The following section 28 guidelines are considered relevant-

- Design Manual for Urban Roads and Streets (2013, updated 2019) Section-
4.2.6 Materials and Finishes
4.3.4 Pedestrianised and Shared Surfaces
4.4.5 Visibility Splays
Table 4.1 Design Seed Selection Matrix
Table 4.2 SSD Standards
- Sustainable Residential Development in Urban Areas (2009)
Section 4.22 deals with 'Personal Safety' and states-
"The ability to live with a feeling of comfort and safety in the residential area is an essential component of sustainable communities. The design of the built environment can contribute to this by creating a sense of security and ownership within residential areas. Good design is essential in a residential area in giving a sense of personal safety, e.g. by providing:
 - *for the passive surveillance of the street and roads by residents and passers-by; blank facades and areas that are not overlooked should be avoided;....."*

Other Guidance-

- Quality Housing for Sustainable Communities – Design Guidelines (2007)

5.3. Natural Heritage Designations

The site is not located within any Natura 2000 sites.

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development it is considered that 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

The applicant has submitted an appeal prepared on his behalf by Hughes Planning & Development Consultants. The appeal provides a brief introduction and a summary of the grounds of appeal which are as follow-

- The proposal addresses the concerns raised in the previous refusal reason on the site S14A/0126
- The proposal offers a more attractive and useful use for the subject site than the present situation
- The proposal adheres to local and national level policy that emphasis intensification and consolidation of existing built up areas, including through infill development and
- The proposal offers a safe alternative to traffic flow on the laneway than the present situation
- In terms of **Refusal Reason 1** the applicant has engaged Barrett Mahony Consulting Engineers to provide an expert analysis 'Technical Note' determining the safety and usability of the access laneway. This refers to the permission permitted under SD16A/0415 for the change of use of existing

yard to storage of mini vans uses as school buses. The Technical Note refers to a sample traffic survey recorded on the 11th of March 2020 and contrasts vehicular movements from the proposed dwelling to the permitted use.

The Technical Note refers to the existing use of the laneway by vehicles and pedestrians serving numerous properties and argues the laneway is a shared surface with no delineation for pedestrians and vehicles, is relatively straight with good lines of sight from the public road to the site and deters significant traffic speeds by nature of its short length. The Note argues the proposed use would be in the spirit of a 'Shared Street' or 'Home Zone' as set out in the 'Manual for Streets'. Presumably this is a reference to the Design Manual for Urban Roads and Streets (DMURS)

- In addressing **Refusal Reason 2** the applicant refers to the Report from Barrett Mahoney Consulting Engineers. A request for AI was noted in the Planners Report but the appeal contends that sufficient information was submitted to the Planning Authority. The Technical Note accompanying the appeal refers to the original proposed design including for SUDs. The appeal details the that current site is paved and impermeable and as such the drainage at the site is already lacking and inadequate.
- The appeal details that **Refusal Reason 3** relates to concern for residential amenity of adjoining properties and future occupants with regards to minimum storage standards not being outlined in the application. The appeal highlights how the development complies the Quality Housing for Sustainable Communities, Best Practise Guidelines. The appeal details how the single storey design prevents negative impacts on adjoining properties and meets separation distances. The appeal refers to Drawing No. 833 (P-)002A a revised ground floor plan indicating allocated storage locations and now providing 12.6 sq.m within the dwelling with additional storage in the garage and external areas. The appeal also refers to the generous amount of space throughout the dwelling.
- Finally, the appeal identifies three permitted planning permission in the SDCC area-

- SD18A/0184/ABP-302812-18 (c3.3 km to the South East) was granted by both SDCC and ABP. This was an end of cul de sac development.
- SD15A/0256 (c3.3km to South West) granted by SDCC. This was an infill site along a road serving a substantial housing estate.
- SD15A/0174 (c4.3km to South East) granted by SDCC. This was also an infill site along a road serving an existing residential development.

6.2. Planning Authority Response

There is no response from the Planning Authority on file.

6.3. Observations

Terry & Frances Doyle. The issues raised by the observers can be summarised as follows-

- Totally unsuitable place to build a house
- No outside views from the house other than of back garages and garden walls
- Very narrow unlit laneway which can accommodate one way traffic
- Report/survey conducted by applicant brief and small snapshot on a given day
- Lack of sightlines from the site
- Lack of parking for visitors
- Footpath and street lighting required
- Operations of permitted minibus use at site at certain times and day only versus everyday traffic flow and footfall from a dwelling
- Passive surveillance exists on laneway from '24 hour security coverage'
- Drainage issues
- Design of the roof as well as structure design will adversely impact current properties.

- Privacy of houses directly facing site will be reduced.
- Provision of bins and collections
- Risk to jobs of minibus operator if dwelling permitted

7.0 **Assessment**

7.1. Having regard to my site visit and the information on file, it is proposed to assess this appeal under the following headings-

- Zoning
- Access
- Residential Amenity
- Water Services Issues
- Other Matters
- Appropriate Assessment

7.2. **Zoning**

7.2.1. The site is zoned RES- Existing Residential with an objective '*To protect and/or improve residential amenity*' as set out in the SDCC County Development Plan 2016-22. As per Table 11.2 of the Development Plan the proposed 'Residential' development is 'Permitted in Principle' within this zoning objective.

7.3. **Access**

7.3.1. Planning Ref no SD16A/0415 permitted the use of the site to a car park for storage of mini vans used as school buses. Condition 2 of this permission allows the parking of 16 such vans. There are no conditions relating to the hours of operation of the site, but it is noted that the Planners Report for SD16A/0415 refers to the time of vehicle movements as outside of peak periods.

- 7.3.2. The Planning Authority's first reason for refusal specifically states the generation of '*additional traffic both vehicular and pedestrian*'. Having reviewed the Technical Report submitted by the applicant, the permitted development under SD16A/0415, the reports of the Planning Authority for the subject application and considered the comments of the observers on this appeal I do not consider that the proposed development would lead to 'additional traffic' over that already permitted under SD16A/0415.
- 7.3.3. The application site is accessed off Muckcross Avenue with the most direct route c.60m south via a narrow laneway ranging from c.4m in width at the entrance from the Avenue to c.3.4m closer to the site. The laneway is generally used to service the rear of existing dwellings in the area. There is no footpath or public lighting to the site and no provision for these are made in the application or appeal.
- 7.3.4. The site is triangular in shape with the entrance at the northern most point where the laneway divides in two. It is accepted that vehicles currently exit and access the site under SD16A/0415 and that in general traffic should move slowly along this laneway due to its narrow nature.
- 7.3.5. Drawing 883(P-)002 (and 883(P-)002A submitted with appeal) appears to show a proposed physical boundary at the entrance to include a pedestrian gate. The development description refers to a new gate. This drawing shows the removal of approximately 3.5m of existing boundary wall to enlarge the existing gate opening. However, it is unclear from the drawings submitted what the proposed boundary will be at this point and how or what direction the proposed boundary/gate will open/close. Drawing 883(P-) 010 appears to suggest that there is no proposed boundary/gate at the entrance.
- 7.3.6. Drawing No. 18409-C1002 shows sightlines of c.59 m to north west from the site to Muckcross Avenue and c.19.5m to the South East along the laneway. No sightline is shown south of the entrance to the cul de sac along the western boundary of the site.
- 7.3.7. Section 4.4.5 of DMURS deals with Visibility Splays. In this regard it appears the applicants are proposing an 'x' distance of 2m (set back from laneway edge) which is

considered reasonable given that vehicle speeds are likely to be low on this laneway and exiting the site.

- 7.3.8. In order to achieve forward visibility, the applicants propose a sightline of 59.7m to North West and 19.5m to the South East. The NW sightline crosses over existing rear boundaries of three dwellings and the SE sightline crosses over the existing high boundary wall of the site save the proposed removal of a small section to facilitate widening of the entrance. There are no sightlines proposed to the south and it is considered the presence of the existing boundary wall wholly restricts visibility in that direction.
- 7.3.9. Having regard to Table 4.2 SSD Standards and section 4.4.5 Visibility Splays as set out in DMURS it is considered given the design speed of the laneway between 10-30kph (based on Table 4.1 Design Speed Selection Matrix) a SSD forward visibility splay of 23m in all directions would be required. This is not achievable based on the drawings and proposals submitted.
- 7.3.10. The applicants have argued that the proposed use of the laneway would be in the spirit of a 'Shared Street' or 'Homezone' as per the 'Manual for Streets'. I have reviewed the 'Design Manual for Urban Roads and Streets 2013' and in particular section 4.2.6 'Materials and Finishes', section 4.3.4 'Pedestrianised and Shared Surfaces' and Section 4.4.2 'Carriageway Surfaces'. The latter states-

"The use of paving, imprinted or looser materials (combined with no kerbing, see Section 4.4.8 Kerbs) is one of the clearest ways of reinforcing a low-speed environment and of signalling to all users that the main carriageway is to be shared."

The application proposes no changes to the laneway itself to inform users that the space is to be shared. Therefore, in the absence of such proposals I am satisfied the use of the existing laneway is not in keeping with the spirit of the Design Manual nor can the laneway be described as a 'Shared Street' or 'Homezone'.

- 7.3.11. Notwithstanding the permitted use on the site, and having regard to the potential traffic turning manoeuvres into and from the site, the absence of visibility splays over

existing and proposed site boundaries, and the lack of a footpath and public lighting on the laneway; it is considered that the proposed development would endanger public safety by reason of traffic hazard.

7.4. Residential Amenity-

7.4.1. The application is for a 270 sq.m single storey, five bedroom dwelling on a site of a stated 0.0805ha. The application also proposes a 20 sq.m garage. It is noted that the general character of the area is of two storey terrace dwellings.

7.4.2. Section 11.3.2 of the SDCC Development Plan sets out the criteria for Residential Consolidation and states-

“Development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking.”

Although the proposed dwelling is not exceptionally close to any existing dwelling it is considered that the proposed single storey nature of the dwelling in general protects the residential amenity of nearby properties and will not lead to overlooking, overshadowing and will not be visibly overbearing to an undue degree.

7.4.3. The proposed dwelling is to be enclosed by existing high boundary walls. It is noted the drawings submitted with this application states these are *‘retained blockwork/concrete boundary walls’* with a stated height of 2.8m. Having inspected the height of the boundary I estimate these walls to be in excess of 3m and closer to c3.3m. It is noted the drawings appear to only show the removal of c3.5m length of boundary wall to facilitate enlarging the gate and do not provide for the reduction in height of the wall along the boundaries.

7.4.4. Section 4.22 of the 2009 Sustainable Residential Development in Urban Areas Guidelines deals with ‘Personal Safety’ and states-

“The ability to live with a feeling of comfort and safety in the residential area is an essential component of sustainable communities. The design of the built environment can contribute to this by creating a sense of security and ownership within residential areas. Good design is essential in a residential area in giving a sense of personal safety, e.g. by providing:

• for the passive surveillance of the street and roads by residents and passers-by; blank facades and areas that are not overlooked should be avoided;.....

7.4.5. SDCC HOUSING (H) Policy 7 deals with Urban Design in Residential Developments and H7 Objective 1 seeks residential development that contributes to the creation of sustainable communities in accordance with the 2009 Guidelines.

7.4.6. It is considered that the proposed dwelling enclosed by existing high boundary walls would represent a substandard form of development with regard to providing a safe and comfortable environment by virtue that it does not contribute to the creation of a sustainable community, does not provide passive surveillance of the laneway by its residents and by passers-by and would provide blank facades and areas that cannot be overlooked in a reasonable way.

7.4.7. The Planning Authority's third reason for refusal specifically refers to the minimum standards for storage have not been achieved in accordance with the Quality Housing for Sustainable Communities Guidelines, 2007. These guidelines state 6sq.m is required for a dwelling with four or more bedrooms. The proposed development is for a dwelling with five bedrooms.

7.4.8. In making the appeal the applicants have submitted revised drawing no. 883(P-) 002A clearly showing the provision of 12.6 sq.m of dedicated storage. Having considered the generous size of the dwelling and each of its rooms, the provision of a garage and two separate car parking spaces I am satisfied that the proposed dwelling as per the drawing submitted with the appeal is now in compliance with the 2007 Guidelines.

7.5. **Water Services Issues**

7.5.1. **Surface Water**

7.5.1.1. Drawing No. 18409-C1000 show an existing surface water pipe to the east of the site which the applicants propose to connect to. The site is currently hard surfaced and does not appear to have an existing connection to the sewer. As such there appears

to be inadequate stormwater drainage from the site. It is noted third parties and observers have referred to flooding on the laneway.

- 7.5.1.2. The applicants have proposed both interception and attenuation storage by means of green roofs, permeable paving and a storage tank in private open space to rear of the dwelling. The Civil Infrastructure Report submitted with the application states '*Extensive Green Roofs will be provided on the flat roof areas*'. Drawing 883 (P-)003 shows the roof plan. The flat roof area appears to be along the north east boundary of the site, and it is noted the Infrastructure Report refers to 95sq.m of proposed green roof. Drawing 883 (P-)003 also identifies the parking bays for interception storage through permeable paving. The Infrastructure Report refers to 25 sq.m of parking area.
- 7.5.1.3. It is unclear from the drawings submitted if water draining from the green roof and permeable paving will connect to the proposed surface water pipe in the private open space that then connects to the public drainage network or if it will drain to ground water.
- 7.5.1.4. The water services section of SDCC have raised concerns over the proximity of the attention tank to the proposed foundations seeking at least 5 metres and if the infiltration proposals are to connect to the public sewer. Having regard to the footprint of the proposed dwelling, the necessary foundations and the restrictions of the site it is considered that it may not be possible to achieve 5m separation distance without a fundamental redesign of the dwelling. Alternatively, a direct discharge to the public sewer may be required having regards to alternative agreeable proposals for SUD's.
- 7.5.1.5. As the site appears to be serviced with a public storm water sewer in close proximity, it is considered reasonable and an efficient use of public resources to facilitate the sites connection to the public network. This may also alleviate concerns of flooding on the laneway. Therefore, if the Board are minded to grant permission for the development an appropriate surface water condition should be applied to provide for Sustainable Urban Drainage Systems where possible to the satisfaction of SDCC.

7.5.2. **Foul Water and Water Supply**

- 7.5.2.1. Drawing No. 18409-C1000 shows an existing foul sewer to the east of the site. The applicant proposes to connect to this sewer. Irish Water's submission on the file refers to a Pre Connection Enquiry only and there is nothing on file to suggest this cannot be achieved.
- 7.5.2.2. Drawing No. 18409-C1001 shows an 'Assumed Line of Existing Service Connection' along the laneway from Muckross Avenue. Irish Water's submission on the file refers to a Pre Connection Enquiry only and there is nothing on file to suggest this cannot be achieved.
- 7.5.2.3. The site is on serviced land and the addition of one dwelling will not considerably increase the loading to the public sewer or detract from the public water supply. It is therefore considered reasonable and an efficient use of public resources to facilitate the sites connection to the public sewer and water network. Therefore, if the Board are minded to grant permission for the development an appropriate condition meeting the requirements of Irish Water for both foul water and water supply can be applied.

7.6. **Other Matters**

The appeal refers to three planning applications that have been permitted for infill developments in the SDCC area. Having reviewed each of these it is considered that the circumstances arising from those applications are not directly comparable in the context of this application site and do not raise the same issues as identified in the Planning Authorities refusal reasons.

7.7. **Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the proposed development, which comprises a backland, infill development on a residentially zoned and serviced site, outside of any Natura 2000 sites, I do not consider that any Appropriate Assessment issues arise and I do not consider 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. I recommend that permission for the development be refused.

9.0 Reasons and Considerations

1. Having regard to the limited width of the laneway accessing to the subject site, and subsequent lack of segregated pedestrian facilities along this laneway, the lack of adequate public lighting, the lack of alternative pedestrian permeability from the subject site, the lack of passive surveillance on to the laneway and into the site by residents and passers-by, the lack of adequate visibility splays and the provision of unsightly high and blank facade boundary walls, it is considered that the proposed development would be substandard with regard to providing a safe and comfortable environment for future users, and would endanger public safety by reason of traffic hazard. Furthermore, the proposed development does not provide for a feeling of comfort and safety in this residential area and does not contribute to a sustainable community. It would, accordingly, be at variance with Section 4.22 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

3 September 2020