



An
Bord
Pleanála

Inspector's Report

ABP-307466-20

Development	Change permitted house type to a three bed, detached dwelling and associated works.
Location	2, Saint John's Crescent, Dublin 22
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0055
Applicant(s)	Jong Kim
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Jong Kim
Observer(s)	None
Date of Site Inspection	14 th September 2020
Inspector	Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located at Saint John's Crescent, a residential street within the Saint John's estate located c. 1km to the southwest of Clondalkin village. The estate comprises terrace rows of single and two storey dwellings, laid out principally in groupings of four and six with rear gardens back to back. A number of corner sites in the estate have been developed with attached and detached dwellings.
- 1.2. The site is a corner site at No. 2, located towards the eastern end of the estate. Directly adjacent to the west and north of the site are No.s 2 and 130 respectively, both two storey, end of terrace dwellings; across the road to the south is No. 1, a single storey, end of terrace dwelling; while adjacent to the east is the public footpath with a grass verge and street trees, and an area of public open space.
- 1.3. The site comprises the side garden of No. 2, delineated along the southern boundary by a low block wall with a gated vehicular entrance serving the full property, and along the eastern boundary by a higher capped and rendered block wall.
- 1.4. The area of the site is given as 0.019 ha.

2.0 Proposed Development

- 2.1. The proposed development is for a detached, two storey, three bedroom dwelling and associated site works. The proposal is a change of house type from that previously granted at the site under Planning Authority (PA) Ref. SD18A/0423. In the plans and particulars of PA Ref. SD18A/0423, and those of the proposed development, the dwelling at the site is referred to as No. 2A.
- 2.2. The proposed dwelling is positioned slightly off-centre towards the front of the site, maintaining the existing front building line established by the terrace row to the west. The approximate distances of the dwelling to the site boundaries include c.6.62m to

the front wall, c.9.85m to the rear wall, 1m to the side gable wall of No. 2, and c.0.56m to the eastern boundary wall.

- 2.3. The proposed dwelling is indicated as measuring c.104 sqm, laid out with all living accommodation at ground floor level and three bedrooms and bathroom at first floor. The principal dimensions include c.7.63m in height, c.6.18m in width and c.9.21m in length with a single storey, flat roof sunroom to the rear. The design of the dwelling includes for two bays with a canopy extending over the front door and bay window at ground floor level. The external finishes comprise a mix of render and brick.
- 2.4. The proposed dwelling is served by an area of rear private open space indicated as measuring c.63.8 sqm and an area for off-street car parking to the front of the site.

3.0 Planning Authority Decision

3.1. Summary of Decision

On 16th June 2020, the Planning Authority issued a Notification of Decision to Refuse Permission for 3 no. reasons that can be summarised as follows:

1. A minimum of 22m separation distance is not achieved between the proposed dwelling and No. 130 Saint John's Crescent, and the proposed dwelling would therefore impact on the privacy of and have an overbearing impact on No. 130. Additionally, the proposed development reduces the private amenity space of No. 2 Saint John's Crescent to a level below the Development Plan standards. As such, the proposed development represents overdevelopment of the site, injures the residential amenities of property in the vicinity and materially contravenes the RES zoning objective.
2. Due to the excessive ridge height of the proposed dwelling and the context of the site being a prominent corner location, the proposed development is visually obtrusive and would injure the amenities of the properties in the vicinity.
3. As the red line boundary for the proposed development differs from that of PA Ref. SD18A/0423, the description of development is considered to be

misleading and the proposed development should not be based on a change of house type from that permitted under PA Ref. SD18A/0423.

4.0 Planning Authority Reports

4.1. Planning Report

The planner's report is the basis for the Planning Authority decision. In addition to the matters related to the refusal reasons, the report notes, inter alia:

- The site is categorised as a corner/ side garden site, and the applicable Development Plan policy and standards in respect of corner sites (Section 11.3.2(ii)) and infill sites (Section 11.3.2(i)) are referred to.
- The proposed dwelling is assessed in terms of Development Plan standards for new dwellings of internal floor space and internal room sizes, and while found to be substandard in instances, is considered to be acceptable.
- The quantum of private open space provided to serve the existing dwelling (i.e. No. 2), is indicated as 57.58 sqm and found to be short of the required 60 sqm.

4.2. Other Technical Reports

Roads: no objection subject to conditions.

Water Services: requests further information in respect of surface water attenuation and SuDS measures.

Parks & Landscape Services/ Public Realm: recommends conditions to be attached in respect of a tree bond, protective measures for street trees, and agreeing boundary treatment.

4.3. Prescribed Bodies

Irish Water: requests further information in respect of details of the distance between the boundary walls of the proposed dwelling and an existing watermain along the

eastern boundary of the site. A required horizontal distance of 3m is indicated as being necessary.

4.4. **Third Party Observations**

None received by the Planning Authority.

5.0 **Planning History**

Appeal Site (No. 2, Saint John's Crescent)

PA Ref. SD18A/0423 – Planning Authority granted permission for the construction of end terrace, 3 bed dwelling; new vehicular entrance to existing dwelling and new vehicular entrance to proposed dwelling; new boundary walls and all associated works.

9 no. standard conditions are attached to the permission, including for external finishes, boundary treatment, vehicular access and services.

The final grant date was 19th March 2019 and this permission has not been implemented.

PA Ref. SD18A/0150 – Planning Authority refused permission for the construction of detached 3 bed dwelling, new vehicular entrance to existing dwelling and new vehicular entrance to proposed dwelling, new boundary walls and all associated works.

The date of the refusal of permission was 23rd August 2018.

Permission was refused for 3 no. reasons which are summarised as follows:

- Substandard separation distance between the proposed dwelling and No. 130 resulting in loss of privacy and an overbearing impact on the latter.
- Substandard private open space for the remaining property No. 2.
- Proposed development is overdevelopment of the site and would set an undesirable precedent.

Adjacent Site to North (No. 130, Saint John's Crescent)

PA Ref. SD03A/0282 – Planning Authority granted permission for a two-storey 3 bedroom end of terrace house, the forming of independent vehicular entrances for the proposed house and the existing house, together with associated site development works, beside and in the grounds of 128 St. John's Crescent.

The final grant date was 21st April 2004 and this permission has been implemented.

6.0 Policy Context

6.1. Development Plan

The applicable development plan is the South Dublin Development Plan 2016-2022. The appeal site is located on lands that are zoned as Objective RES, Existing Residential, with the stated objective '*To protect and/ or improve residential amenity*'. The proposed development comprises a new dwelling in a corner/ side garden site in an urban area and the relevant policy is therefore considered to include:

Section 2.4.0 Residential Consolidation recognises that in '*established residential areas sustainable intensification can be achieved through infill development...and the development of large corner sites*'.

Housing (H) Policy 17 Residential Consolidation states it is Council policy '*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 3 seeks '*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*'.

11.3.1 Residential (iv) Dwelling Standards specifies the minimum space standards for 3 no. bedroom houses of 92 sqm and private open space for 60 sqm.

11.3.1 Residential (v) Privacy guides that '*A separation distance of 22 metres should generally be provided between directly opposing above ground floor windows to maintain privacy. Reduced distances will be considered in respect of higher*

density schemes or compact infill sites where innovative design solutions are used to maintain a high standard of privacy.'

11.3.2 Residential Consolidation (ii) Corner/ Side Garden Sites

'Development on corner and/or side garden sites should meet the criteria for infill development in addition to the following criteria:

- *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'.*

Section 11.3.2 Residential Consolidation (ii) Corner/ Side Garden Sites also refers to the applicability of Section 11 criteria for infill development. The relevant criteria for the proposed development are considered to be:

11.3.2 Residential Consolidation (i) Infill Sites

'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.*

- ... 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....
- 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.

6.2. Natural Heritage Designations

The appeal site is not located in or near to any European site.

7.0 The Appeal

7.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- Failure to consider existing planning precedent in the area for forms of development that are similar to the proposed dwelling, that being, detached dwellings and dwellings with differing roof heights to adjacent properties;
- Exaggeration of the negative visual impact associated with the proposed dwelling and the applicant considers the increased ridge height of the proposed dwelling (7.63m) from that of the existing terrace row to the west (7.14m) to be minimal and to not result in an adverse visual impact;
- Failure to properly consider the issue of separation distances. The 22m separation distance between opposing above ground floor windows is a Development Plan standard that 'should generally be provided' and is a requirement to address overlooking. The proposed development achieves a separation distance of 21m and the proposed dwelling is designed with a high-level rear bedroom window that does not result in overlooking;
- Planning Authority references to incorrect floor area calculations and inconsistencies in the drawings are stated as being incorrect. The proposed

dwelling is 11 sqm in excess of the Development Plan minimum floor area for a 3 no. bedroom house, and is stated as having been considered acceptable in terms of other standards and policies;

- Inconsistent approach to determining the quantum of private open space serving No. 2. The changes to the rear garden area were considered acceptable and granted under SD18A/0423, but are cited as a refusal reason in the current proposal;
- The refusal reason relating to the description of development and site boundary is a misunderstanding by the Planning Authority. The application was accepted as a valid application, is a change of house type at the site, and is sufficient to be understood by the public; and
- Applicant requests that the Board grants the proposed dwelling as originally proposed but has submitted revised drawings for the Board's determination. These indicate a reduction in the principal height of the proposed dwelling of c.0.30m from c.7.63m to c.7.34m.

7.2. **Planning Authority Response**

The Planning Authority has responded to the appeal confirming its decision to grant permission and stating that the issues raised in the appeal were covered in the planner's report.

No comment is made on the revised drawings that include a reduction in the principal height of the proposed dwelling.

7.3. **Observations**

None.

8.0 **Assessment**

I consider the main issues in determining this appeal are as follows:

- Zoning and Principle of Development
- Residential Amenity

- Visual Amenity
- Planning History
- Site Access and Servicing

8.1. Zoning and Principle of Development

- 8.1.1. The appeal site is located on lands that are zoned Objective RES, Existing Residential, in the South Dublin Development Plan. The proposed development is therefore permitted in principle.
- 8.1.2. The proposed development is an amendment to an extant permission which established the principle of a new residential dwelling at the site. The issues to be determined in this appeal are therefore those associated with the change of house type being sought.

8.2. Residential Amenity

- 8.2.1. The proposed dwelling exceeds the minimum Development Plan standard floor area for 3 no. bedroom houses. While the aggregate floor areas for living, storage and bedroom spaces are indicated on the plans and are noted as being slightly below standards indicated in the national 'Quality Housing for Sustainable Communities: Best Practice Guidelines', the shortfall is minimal. I consider that the internal layout and arrangement of the dwelling is satisfactory, and the residential amenity of future residents is safeguarded.
- 8.2.2. The first refusal reason cited by the Planning Authority focuses on injury caused to the residential amenities of adjacent properties. In respect of overlooking, loss of privacy and overbearing impact on No. 130, the proposed development provides a 21m separation distance between opposing rear windows at first floor level. The rear bedroom window has been designed as a high-level window and the bathroom has opaque glass thereby restricting direct overlooking of this property. The applicant suggests that the rear bedroom window could be removed by condition, however, I do not consider that is necessary as the privacy of No. 130 is sufficiently safeguarded by the internal layout and the fenestration solution.

- 8.2.3. While the Planning Authority highlights that a minimum 22m separation distance has not been achieved, I note the exact wording of Section 11.3.1(v) is that a *'separation distance of 22m should generally be provided between directly opposing above ground floor windows to maintain privacy'* and that *'reduced distances will be considered where innovative design solutions are used to maintain a high standard of privacy'*. In this regard, I consider that the proposed development complies with the policy whereby a reduced provision is acceptable as there is a design solution safeguarding the privacy of the adjacent property.
- 8.2.4. In respect of the private open space for No. 2 being reduced to a substandard quantum, I note that the proposed development seeks a change of house type only and neither the private open space provision nor the boundary with No. 2 are being altered from the previously granted permission. As such, this item is not a consideration in this current appeal.
- 8.2.5. The Planning Authority concludes that the proposed development constitutes overdevelopment of the site, injures the residential amenity of adjacent property and materially contravenes the RES zoning objective. However, I consider that the proposed dwelling is of a design, scale and siting that is not excessive, and will not cause undue overlooking, overbearing or overshadowing of adjacent properties. I do not consider that the RES zoning objective or any Development Plan policy or standard to be materially contravened by the proposed development.

8.3. Visual Amenity

- 8.3.1. In similarity with the permitted dwelling, the proposed dwelling is a two storey, two bay, three bedroom modestly scaled house with an elevational treatment, fenestration design and external finish that is sympathetic to and consistent with the existing adjacent properties.
- 8.3.2. The main differences in the design of the proposed dwelling and that of the permitted dwelling include the change of house type from an attached, end of terrace dwelling to a detached one; alterations to the front elevation design with the inclusion of a projecting bay window and overhanging canopy at ground floor level; additional brick

external finish at ground floor level on the eastern and northern elevations; an increase in building footprint and an increase in the roof ridge height.

- 8.3.3. These differences, for the most part are minor, and the proposed dwelling is of a design, scale and finish that is sufficiently consistent with the adjacent properties to ensure that it can be subsumed into the site without causing injury to the visual amenities of the area.
- 8.3.4. The second refusal reason cited by the Planning Authority states that due to the increased roof height, the proposed dwelling would be visually obtrusive. While it is noted that the roof height of the proposed dwelling will be c.0.5m higher than that of the No. 2, this is not considered to be so disparate or excessive. While the applicant requests that the Board grant permission for the proposed development as lodged with the Planning Authority, revised drawings have been submitted with the appeal indicating a reduced roof height. The reduction in height is by c.0.3m from c.7.63m to c.7.34m and is achieved through a decrease in the angle of the pitched roof. I consider that the proposed dwelling as lodged with the Planning Authority to be the preferable design solution, particularly in relation to the profile of the gable ends which are more consistent with neighbouring properties.
- 8.3.5. At first floor level in the eastern side elevation, windows are provided to serve each of the bedroom spaces, which is in compliance with the criterion of Section 11.3.2(ii) requiring dual frontage for new dwellings in corner sites to avoid blank facades and maximise surveillance of the public domain. The proposed dwelling has an aspect to the east onto an area of public open space and the windows in this side elevation area considered be a positive design feature.

8.4. Planning History

- 8.4.1. The Planning Authority highlights that the red line boundary for the proposed development differs from that of the extant permission, and cites as a third refusal reason that the description of development is therefore misleading and should not be based on a change of house type permitted under PA Ref. SD18A/0423.

8.4.2. While I note that the red line boundaries differ for the two applications, the red line boundary of the proposed development does encompass an area of land that was fully included within the wider red line boundary of the extant permission and does correspond with the new dwelling permitted under PA Ref. SD18A/0423. As such, I am of the opinion that the description of development is not misleading, it can form the basis for an application for a change of house type, that the red line boundary of the proposed development can encompass the side garden area of No. 2 only, and that the Board is able to determine the appeal.

8.4.3. In the event of a grant of permission, the appropriate period and relevant conditions of PA Ref. SD18A/0423 should continue to apply. In respect of residential amenity, existing conditions are considered sufficient in respect of the dwelling's single use (Condition 5) and measures to minimise dust and noise construction impacts (Condition 8 and 9); and for visual amenity, the dwelling's external finishes (Condition 3), tree bond and protective measures (Condition 6), and boundary treatment (Condition 7).

8.5. Site Access and Servicing

8.5.1. In respect of the site access, the proposed development does not include any changes to the access arrangements permitted under the extant permission. I note the contents of the Planning Authority Roads report in this regard.

8.5.2. In respect of water services infrastructure, it is noted that the Planning Authority Water Services section and Irish Water sought further information on technical and design items for surface water drainage and proximity to a watermain respectively.

8.5.3. Neither the Water Services section nor Irish Water raised any objections to or presented any evidence of any significant capacity constraints. The applicant did not address these water services items in the first party appeal documentation.

8.5.4. From a review of the reports and particulars, it is considered that the issues raised relate to technical standards and design requirements. In respect of the separation distance between the boundary walls of the proposed dwelling and the existing

watermains, it is noted that the 3m distance required by Irish Water appears to be achievable for the most part, with the narrowest separation distance at the southeastern corner of the site. Therefore, it is recommended that in the event of a grant of permission, new conditions be attached ensuring the agreement of Irish Water and the Water Services section for the water services infrastructure to serve the proposed dwelling.

9.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

10.0 **Recommendation**

I recommend that planning permission should be granted, subject to conditions as set out below.

11.0 **Reasons and Considerations**

Having regard to the nature, scale and design of the proposed development, to the general character and pattern of development in the area, and to the provisions of the South Dublin Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with H19 Objective 3 of the Development Plan, would not seriously injure the visual or residential amenities of property in the vicinity and would not be out of character with the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 **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
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	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Apart from any amendments specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on the 19th March 2019 under planning register reference number SD18A/0423, and any agreements entered into thereunder. The appropriate period for the development shall concur with that of planning authority reference number SD18A/0423.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.</p>
3.	<p>Surface water drainage arrangements for the proposed development shall be agreed in writing prior to commencement of development with the planning authority.</p> <p>Reason: In the interest of public health.</p>
4.	<p>(i) The developer shall enter into water and/ or wastewater connection agreement(s) with Irish Water prior to commencement of development.</p> <p>(ii) As part of the connection agreement with Irish Water, the developer shall confirm by site investigation the proximity of the existing watermain to the proposed development and implement any measures required by Irish Water to protect and ensure the integrity of the watermain.</p> <p>Reason: In the interest of public health.</p>
5.	<p>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.</p>

	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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Phillippa Joyce
Senior Planning Inspector

15th October 2020