



An
Bord
Pleanála

Inspector's Report

ABP-307700-20

Development	Construction of a house with a single storey pitched roofed entrance porch to the front.
Location	28, Pairc Mhuire, Saggart, Co Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0072
Applicant(s)	Philomena and Jim Moore.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Philomena and Jim Moore.
Observer(s)	none
Date of Site Inspection	16 th October,, 2020
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located within the curtilage of an existing house at No.28 Pairc Mhuire and comprises part of the front, side and rear garden of this existing property. No. 28 is a corner plot with an irregular shape having a wide frontage of c.20 metres with a step in approximately 10 metres into the site and then tapering in width towards the rear. The existing layout is such that there is a large approximately square shaped area located forward of the building line and to the side of the existing house.
- 1.2. The site is currently occupied by a two storey house that has a stated floor area of c. 69 sq. metres. In addition, there are two block construction outbuildings located to the rear and side of the house and a further metal shed structure located at the far (southern) end of the garden.
- 1.3. There is an existing vehicular entrance located approximately in the mid point of the site frontage and there is a pedestrian entrance that is located towards the western end of the site in front of the existing house.
- 1.4. The stated area of the appeal site is 0.04 ha (430 sq. metres).

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the out buildings that are located to the rear and side of the existing house and the construction of a detached pitched roofed two storey house. The outbuildings proposed for demolition have a stated area of 3.5 sq. metres. The house is proposed to have an 'L' shaped floorplan that runs north-south to the side of the existing house at No.28 and then east west across the front. The front building line is proposed to be forward of that formed by the original front elevation of No.28 by c.4.4 metres and beyond the line formed by the porch to the front of No.28 by c.2.3 metres.
- 2.2. Three bedrooms are proposed, and the house has a stated floor area of 114.14 sq. metres. The floor area of the existing house at No.28 would remain at 69 sq. metres. The shed structure located at the rear of the site is proposed to be retained and would be within the curtilage of No.28. A triangular shaped area of open space is

proposed to be located to the rear of the proposed new house and this area would have a depth of c.10.5 metres and an average width of c.3.5 metres.

- 2.3. The existing vehicular entrance to the site is proposed to be partially filled in with the balance as a pedestrian access. New vehicular entrances to serve both the existing and new houses are proposed at each end of the site frontage. The new house is proposed to be connected to the public water supply and drainage network.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for two reasons that can be summarised as follows:

1. That by virtue of the deficiency in private open space provision, and the building line that would project significantly forward of the established building line to the west, the proposed development would have an overbearing visual impact on that property (No.28) and on the visual amenity of the area and would therefore seriously injure the amenities of properties in the vicinity and be contrary to the Objective RES zoning objective for the site and contrary to the proper planning and sustainable development of the area.
2. That the proposed development would set an undesirable precedent for other similar forms of development that would be harmful to the visual and residential amenities of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the internal reports and development plan policy and concludes that the proposed development would provide a sub standards level of private amenity space to serve the rear of the dwelling and that it would have an overbearing visual impact on Pairc Mhuire (No.28) and on the visual amenity of the area. Refusal of permission for reasons consistent with the Notification of Decision which issued is recommended.

3.2.2. Other Technical Reports

Water Services – Recommends further information on the provision of SuDs measures on the site and on site drainage.

Roads and Transportation – Recommends further information regarding the provision of 2 no. car parking spaces within the site(s) and that boundary treatments / heights shall not exceed 1.2 metre with a 3.5 metre wide opening.

Parks – No objection subject to the submission of a landscaping plan. .

3.3. Prescribed Bodies

Irish Water – No objection, (this report is referenced in the report of the Planning Officer but is not on the appeal file.)

3.4. Third Party Observations

No third party observations made to the Planning Authority.

4.0 Planning History

There is no relevant planning history relating to the appeal site referenced on the appeal file.

5.0 Policy Context

5.1. Development Plan

The appeal site is located on lands that are zoned Objective RES, under the provisions of the *South Dublin County Development Plan, 2016-2022*, where the stated objective is '*to protect and / or improve residential amenity*'.

Section 2.4.0, 11.3.2 and **Policy H17** of the plan promote the principles of residential consolidation and infill.

Paragraph 11.3.2(i) specifically relates to design criteria for infill sites with 11.3.2 (ii) setting out additional criteria to be met for infill developments in side or corner gardens.

Policy H17 Objective 3 states

'To favourably consider proposals for the development of corner or side gardens within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11.'

Section 11.3.1 of the plan relates to residential standards including privacy.

Paragraph 11.3.20 sets out the minimum open space standards for houses.

5.2. **Natural Heritage Designations**

The site is not located in or close to any European sites.

5.3. **EIA Screening**

Having regard to the limited scale of the proposed development incorporating a single additional dwelling and the design including the proposal that the house would be connected to the public water supply and drainage network, 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 following is a summary of the main issues raised in the first party grounds of appeal:

- That there is precedent for a number of grants of permission for similar developments in the general area, notably SD07A/0109.

- That Table 11.20 of the Plan states that open space should be located to the rear of the front building line of the house. An area of in excess of 60 sq. metres is provided to the rear of the front building line.
- That the rear garden is south facing and so, unlike Ref. SD07A/0109, a smaller private open space to the rear would have a significant level of amenity.
- The proposed layout allows for the retention of a side access to the existing house.
- That the existing porch to No.28 is forward of the building line as is the extension to No.29. The context with regard to building lines has therefore changed.
- A revised layout showing the potential realignment of the boundary wall between No.28 and the proposed site is submitted for consideration.
- That given the precedent of Ref. SD07/0109, the reference to undesirable precedent is not considered a reasonable basis to refuse permission.
- Letter submitted from the applicant setting out connections to the area and personal circumstances.
- Letter from applicants also highlights a number of precedent planning permissions in the general area that are contended to support the form of development proposed. These include SD07A/0109 (No.44), SD06A/0203 (No.30), SD06B/0248 (No.22), SD06B/0509 (No.32) and SD04B/0695 (No.23).
- Submitted that the number of extensions and alterations undertaken to houses in the estate is such that there is no established form that the proposed development would break with or set an undesirable precedent.
- Stated that the first party intend to continue to reside at No.28 and they would not want any development that would impact negatively on their residential amenity.

6.2. Planning Authority Response

The submission received from the Planning Authority states that it confirms its decision and that the issues raised in the appeal are covered in the report of the Planning Officer.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Zoning / Principle of Development
- Design and Impact on Amenity
- Other Issues
- Appropriate Assessment

7.2. Zoning / Principle of Development

7.2.1. The appeal site is located on lands that are zoned Objective RES, under the provisions of the *South Dublin County Development Plan, 2016-2022*, where the stated objective is *'to protect and / or improve residential amenity'*. A new dwelling is permitted in principle on lands zoned Objective RES subject to other relevant plans and policies being complied with.

7.2.2. Policy H17 Objective 3 states that it is an objective of the council *'To favourably consider proposals for the development of corner or side gardens within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11.'* The form of development proposed is consistent with this objective. The compatibility of the proposed development with the design standards set out in Chapter 11 is considered further in the following sections.

7.2.3. I note the fact that the first party makes reference to a number of precedent cases where it is contended that development of a similar form to that proposed in the current case were permitted by the Planning Authority. Particular reference is made to the development undertaken to the side of No.44 Pairc Mhuire to the north of the appeal site (SD07A/0109) and, as part of the first party appeal, copies of the Notification of Decision and the site plans of the developments cited have been submitted. These precedent cases are noted, however the particular circumstances of each case require that proposals would be assessed on their individual merits. It is also noted that most of the cited examples do not relate to corner sites such as the current appeal site and that while the case referred to at No.44 is a corner site, the development permitted is not as constrained by the shape of the site and is not located as close to the site boundary or the adjoining house as would be the case in the subject case. Specifically, the site at No.44 was a more regular triangular shape than that on the appeal site, the house permitted does not project forward of the building line and separation distances to existing houses is greater. Finally, it is noted that the cases cited were decided by South Dublin County Council and are not decisions made by An Bord Pleanala.

7.3. Design and Impact on Amenity

- 7.3.1. The design proposed comprises an L shaped footprint that utilises the width at the front of the site. This front part of the proposed development would however be located completely forward of the original building line formed by the existing terrace of houses to the west of which No.28 is the end house. The main part of the front elevation (north facing) of the proposed development would be c.4.4 metres beyond (north of) the two storey building line on the existing terrace to the west.
- 7.3.2. Viewed from the east and north, I do not consider that the proposed design would be significantly visually obtrusive and it would help to fill in a gap at this corner where there is currently a large gap. Viewed from the west and north west however, I would agree with the assessment of the Planning Officer that the development would have a significant negative impact on the visual amenities and streetscape and that it would have a particularly significant negative impact on the outlook from No.28. I note the comment of the first party that they are the current residents of No.28 and

consider the proposal acceptable, however the potential negative impact on outlook from this property is still in my opinion a valid consideration in the assessment of this proposal. Most fundamentally however I consider that the degree to which the proposed development would project beyond the established building line to the west, and the blank nature of the elevation that would project beyond the building line, is such that the proposed development would have a significant negative impact on the streetscape and visual amenities in this location. The first party contend that the porch to the front of No.28 would mitigate the change in difference in building line. The presence of this feature, and the fact that there have been a significant number of alterations undertaken to houses in the estate such that the original form has been partially lost, is noted, however I consider that the main impact on visual amenity will result from the variation in the two storey building line in this location and that the degree that this would be the case is excessive and such as to have a significant impact on residential and visual amenity.

- 7.3.3. In terms of the impact of the development on the amenity of surrounding properties, I consider that the degree that the building line would project forward of that at No.28 would have an overbearing visual impact on this property. I also consider that the design and proximity of the proposed house to the eastern site boundary and the L shaped footprint would have an overbearing visual impact on the rear garden of the house to the east, (No.29 Pairc Mhuire). Specifically, at the south east corner, the proposed development would be within c.600mm of the boundary to the rear garden of No.29 and within less than 1.0 metres further along the boundary to the north. I also consider that the proximity of the proposed house to the boundary and its location is such that there would be the potential for a loss of sunlight to the rear garden and side extension to No.29 during mid summer. The application is not accompanied by a shadow impact assessment and the exact degree of such an impact is difficult to accurately assess. It should be noted that the impact on the amenity of this property to the east (No.29) did not form part of the basis for the refusal of permission issued by the Planning Authority and may therefore be considered to constitute a new issue in the assessment of this case. For this reason, specific reference to the impact of the proposal on No.29 Pairc Mhuire is omitted from the recommended reason for refusal.

- 7.3.4. The design of the proposed dwelling is such, subject to the use of opaque glazing in a number of locations including on the upper floor landing, there would not in my opinion be any significant issues of direct overlooking arising. Internal room sizes and layout appear to be consistent with the requirements specified in the development plan and those contained in Quality Housing for Sustainable Communities.
- 7.3.5. Private amenity space to serve the development is proposed to be located to the rear with the sub division of the existing rear garden of No.28. As per the layout submitted to the Planning Authority, the area to be retained with the existing house at No.28 is c.76 sq. metres, some of which would be taken up with the retention of the existing shed. This is considered acceptable. The layout submitted to the Planning Authority indicates an area of open space to the rear of the building line of c.34 sq. metres with additional space to the side and enclosed within the L shaped footprint of the building. Both of these spaces are however constrained in their size and dimensions, with the area to the rear tapering down to c.2 metres wide at the southern end and the area to the side not in my opinion being quality usable amenity space due to the restricted dimensions and separation from the rear of the garden. While the wording of Table 11.20 regarding private amenity space makes reference to the fact that '*open space should be located behind the front building line of the house*', in my opinion regard also need to be had to the layout and usability of the open space proposed. As originally proposed and submitted to the Planning Authority, I would agree with the assessment of the Planning Authority that the layout is deficient in terms of the provision of private amenity space.
- 7.3.6. As part of the appeal, the first party has submitted a revised site layout that indicates a step in the boundary between the rear gardens of No.28 and the proposed new house. The effect of this change is to reduce the area of garden to be retained with No.28 to c.60 sq. metres (excluding the existing shed) and to increase the open space area to the rear of the building line on the new house site to c.43.5 sq. metres. Even with the additional areas to the side of the proposed house, and having regard to the southerly aspect of this space, I consider that this is still less than optimum for a three bedroom house. From the submitted site plan it is apparent that the open space areas to the rear of both houses could be expanded such that they would meet the development plan standard of 60 sq. metres if the existing shed at the

southern end of the garden was removed. This is not however currently proposed by the first party.

- 7.3.7. Paragraph 11.3.2(i) of the development plan specifically relates to design criteria for infill sites with 11.3.2 (ii) setting out additional criteria to be met for infill developments in side or corner gardens. For the reasons set out above, the proposed development does not in my opinion meet these requirements, specifically with regard to the degree of architectural integration (11.3.1(i) – Infill Sites) and the set back from adjoining dwellings, and compatibility with the existing building line (11.3.1(ii) – Corner / Side Garden Sites).
- 7.3.8. For the reasons set out above it is my opinion that the development as proposed, including the amended layout submitted as part of the first party appeal, would have a negative impact on the visual amenity and streetscape of the area, would adversely impact the amenity of adjoining properties by virtue of overbearing visual impact and would provide an inadequate level of amenity for future occupants by virtue of the open space layout proposed. The layout of the site is such that a smaller infill house, possibly attached to the existing end of terrace dwelling at No.28, may be possible to the side of the existing dwelling and designed in such a way that it did not break established building lines to the extent that is the case in the current proposal. The removal of the existing shed at the southern end of the site and possibly the provision of screened open space area to the front of the site could form part of such a revised proposal.

7.4. Other Issues

- 7.4.1. The comments of the Roads Department with regard to the maximum height of the roadside boundaries and the width of vehicular access openings are noted. It is considered that these issues could be the subject of conditions in the event of a grant of permission. The comments of the Roads Department with regard to on site parking are also noted. The submitted layout is such that space is provided for the parking of a single car within the site of the proposed dwelling and the space indicated as remaining within the site of No.28 would also appear to be suitable only for the parking of a single car. The development plan specifies a requirement of 2 no. off street parking spaces per residential unit.

- 7.4.2. It is noted that the Water Services section of the council requested that additional details regarding SuDS measures and the disposal of surface water on site would be submitted. In the event that consideration was given to a grant of permission it is considered that this issue could be addressed by way of condition and compliance submission.
- 7.4.3. The development is proposed to be connected to the public water supply and drainage network. This arrangement is considered to be acceptable and it is noted that there the report of the Planning Officer on files states that Irish Water have no objection to the proposed development. In the event of a grant of permission a condition requiring that a connection agreement be entered into with Irish Water should be attached.

7.5. **Appropriate Assessment**

- 7.5.1. 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.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

9.0 Reasons and Considerations

Having regard to the location of the proposed dwelling and particularly the extent by which it would break the established two storey building line formed by the existing terrace of houses to the west, to the proximity of the development to site boundaries and to the restricted amount of usable quality private open space proposed to serve the site it is considered that, notwithstanding the amended layout submitted as part of the first party appeal, the proposed development would have a negative impact on the visual amenity and streetscape of the area, would adversely impact the amenity of adjoining properties by virtue of overbearing visual impact and would provide an inadequate level of amenity for future occupants by virtue of the open space layout proposed. The proposed development would therefore seriously injure the amenities and depreciate the value of properties in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

21st October, 2020