



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307829-20

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Development	Construction of part single/part two storey detached, three-bedroomed dwelling with the side garden
Location	47 Sycamore Avenue, Castleknock, Dublin 15, D15 AFA05
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW20A/0060
Applicant(s)	Caroline Rainsford.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Observer(s)	None.
Date of Site Inspection	20 <sup>th</sup> October 2020
Inspector	Barry O'Donnell

## **1.0 Site Location and Description**

- 1.1. The subject site consists of the side garden of 47 Sycamore Avenue, a semi-detached property at the junction of Sycamore Avenue and Maple Avenue, measuring 0.04ha. The existing house on the site is gable ended, also incorporating a small projecting porch/bay element which extends across the front elevation.
- 1.2. The site is bounded to the south and west by a mix of hedging and a 2m capped and plastered block wall. Access to the rear garden of the property was not available to me, to confirm the layout and boundary treatments within the rear garden.
- 1.3. There are a number of street trees along the south and west property boundaries, within the grassed verge.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the construction of part single/part two storey, detached house, within the side garden of an existing residential property.
- 2.2. The proposed house would have three bedrooms and would be of a similar size and appearance to the existing dwelling on the site, measuring approx. 96sqm. The house would measure approx. 8.1m to ridge level, 6m wide and 10.4m deep. The first floor element of the north-west side elevation would be cantilevered, projecting approx. 300mm beyond the ground floor element in this area, over the side access. A projecting bay window towards the rear of the north-west elevation would project further out from the cantilevered element.
- 2.3. A rear garden of 71sqm would be provided for the proposed dwelling and a rear garden of 61sqm would be retained for the donor property.
- 2.4. A vehicular access measuring 4.3m would be provided to be the front, adjacent to the access to the donor property.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On 15<sup>th</sup> July 2020 Fingal County Council refused permission, for one reason as follows:

*'Having regard to the character and appearance of the surrounding residential area characterised by semi-detached dwellings, it is considered that the proposed development of a single detached house on this prominent restricted corner site would by reason of its siting and design be visually incongruous and out of character with adjoining dwellings, the pattern of development and street scene where corner sites contribute to the open character of the area. This along with the necessity to create a new entrance to serve the dwelling would by reason of the necessity to remove a substantial area of established boundary hedge exacerbate the visual intrusiveness and harm to the detriment of the area. The proposed development would seriously injure the amenities of the area and would contravene materially Objective DMS 40 of the Fingal Development Plan 2017-2023 with regard to the development of corner sites and would, therefore, be contrary to the proper planning and sustainable development of the area.'*

### 3.2. Planning Authority Reports

- 3.2.1. Planning Report dated 6<sup>th</sup> July 2020, which reflects the decision to refuse permission. The report noted that the application was a repeat application and that permission had previously been refused. The report noted that under the 'RS' zoning residential development is supported but that a balance is required between the new development and the protection of existing amenities. Particular concerns were expressed in relation to the visual impact of the development, with the proposal considered to appear 'cramped and congested'. The recommended reason for refusal is generally in accordance with the Planning Authority's decision to refuse.
- 3.2.2. Other Technical Reports

**Parks and Green Infrastructure** – Report dated 11<sup>th</sup> June 2020 which notes that the propose vehicular entrance would require removal of a street tree. A number of conditions are requested as part of any decision to grant, including a requirement for

a €500 payment towards the cost of replacing this tree and a €3,000 bond payment to ensure the protection of other street trees.

**Transportation** – Undated report, which outlines no objection to the development. A number of conditions are requested as part of any decision to grant, including a requirement that the vehicular access should be max 4m wide and a requirement that the foundations of the gable wall should be designed, supervised and certified by a qualified person with professional indemnity.

### 3.3. **Prescribed Bodies**

3.3.1. **Irish Water** – Submission dated 9<sup>th</sup> May 2020, advising that there is no objection to the development.

### 3.4. **Third Party Observations**

3.4.1. None received.

## 4.0 **Planning History**

FW19A/0213 - Permission refused on 12<sup>th</sup> February 2020 for a part single/part two-storey, three-bed house in the side garden, including off street parking for 2 cars, ancillary site works and connections to all services. Permission was refused for two reasons, relating to (a) visual impact and (b) foul and surface water drainage.

FW19A/0033 – Permission refused on 17<sup>th</sup> April 2019 for a two-storey house, including new site entrance, connection to water and sewerage services and associated site works. Permission was refused for five reasons, relating to (a) visual impact, (b) internal layout, (c) car parking, (d) foul and surface water drainage and (e) failure to demonstrate appropriate legal interest in the land.

F01A/0238 - *1 Maple Avenue and 47 Sycamore Avenue*: (Board Ref. PL06.124994) Permission refused on 29<sup>th</sup> November 2001 for 2 two-storey 3-bed detached houses with off street parking for 2 vehicles to

each dwelling. Permission was refused for 1 reason, relating to visual impact.

### Relevant Nearby Planning History

There is an extensive list of planning records in the surrounding area. Those relevant to this appeal include:

FW18A/0004 - *1 Maple Avenue*: Permission granted on 23<sup>rd</sup> July 2018 for demolition of a single storey garage/ utility area to the side and the construction of a two-storey, semi-detached, 3-bed dwelling in the side garden, to include off street parking and ancillary site works.

F06A/1137 - *37 Maple Avenue*: Permission granted on 16<sup>th</sup> November 2006 for a detached two-storey house within the side garden, together with associated site works including a new vehicular entrance.

F04A/1878 - *1 Maple Lawn*: Permission granted on 5<sup>th</sup> April 2005 for a detached two-storey house within the side garden, together with a new vehicular entrance.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. The site is zoned 'RS' under the Fingal County Development Plan 2017-2023, with an objective to "*Provide for residential development and protect and improve residential amenity.*"

5.1.2. In relation to infill, corner and backland sites, Objectives PM44 and PM45 are relevant, stating that it is an Objective to:

PM44: '*Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.*'

PM45: '*Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.*'

Objective DMS40 is also relevant to corner site developments, controlling such developments as follows:

*'New corner site development shall have regard to:*

- *Size, design, layout, relationship with existing dwelling and immediately adjacent properties.*
- *Impact on the amenities of neighbouring residents.*
- *The existing building line and respond to the roof profile of adjoining dwellings.*
- *The character of adjacent dwellings and create a sense of harmony.*
- *The provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain.*
- *Side/gable and rear access/maintenance space.*
- *Level of visual harmony, including external finishes and colours.'*

## **5.2. Natural Heritage Designations**

5.2.1. The site is not located within or adjacent to any Natura 2000 sites.

## **5.3. EIA Screening**

5.3.1. 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**

6.1.1. The grounds of appeal can be summarised as follows:

- Residential development is acceptable in principle on the site, under the zoning. The development complies with zoning objectives and policies at local, regional and national levels.
- Similar developments have been approved recently
  - FW18A/0004 at 1 Maple Avenue, FW15A/0036 at 1 Brompton Grove and FW17A/0170 at 160 Delwood Park are cited as examples.
- Previous refusals on the site related to the design and compliance issues. The current application resolves all issues and is fully compliant. Permission appears to have been refused for visual reasons, rather than any non-compliance.
  - There is no mention in the development plan where detached houses are not permitted beside a semi-detached house. There is an existing detached house opposite the application site, at 37 Sycamore Avenue
  - The site is not restricted in any way.
  - The development plan encourages contemporary designs on infill sites and the proposed house is based on an already permitted house on the opposite corner, at 1 Maple Avenue.
- The planning authority's contention that corner sites contribute to the open character of the area conflicts with the active encouragement of the development plan to develop underutilised corner sites.
- The appellant does not understand the reference to 'the necessity to create a new entrance' within the refusal reason.
  - All new houses require a new entrance and the development plan requires such provision, for off-street parking.
  - The appellant notes that the transportation department had no objection to the development
- Development plan Objective DMS40 is general in nature and does not state that new houses must be the same as the adjoining house, rather to have regard for the neighbouring streetscape.
  - The proposal does not in any way contravene Objective DMS40

- The planner's report acknowledges notes the level of compliance of the development with development plan standards
- The site is located in an area served by a bus route, shops, schools and is connected to all utilities. It is appropriate for development.
- The proposal does not infringe on any building line.

## 6.2. **Planning Authority Response**

6.2.1. None received.

## 6.3. **Observations**

6.3.1. None received.

## 7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the proposed development are:

- Principle of development,
- Design and Layout,
- Visual impact,
- Residential amenity,
- Parking and access,
- Other issues,
- Appropriate Assessment

## 7.2. **Principle of Development**

7.2.1. The proposed development is consistent with the 'RS' zoning objective, as set out in the Fingal County Development Plan 2017-2023.

7.2.2. I note that the Planning Authority's refusal reason identifies that the development would represent a material contravention of the development plan, in relation to contravention of Objective DMS40. Having read the application and appeal



documents, I am of the opinion that the proposed development does not represent a Material Contravention of the development plan, since residential development is permitted in principle under the 'RS' zoning and the broad requirements of Objective DMS40 have been complied with. I am therefore satisfied that Section 37(2) of the Act is not applicable in this instance and the appeal can be considered on this basis.

### **7.3. Design and Layout**

- 7.3.1. The design and layout of the house is acceptable, incorporating a similar height and bulk to other houses in the area. The first floor element of the north-west side elevation would be cantilevered, but this will not be a prominent feature in views. Indeed, I noted on my visit to the site that the recently constructed side garden house at 1 Maple Avenue also incorporates a cantilevered first floor element, adjacent to the road.
- 7.3.2. The proposed layout maintains the front building line and though the north-west side building line would be extended and would involve building out a recessed section of the north-west boundary wall, I consider the impact of this would be acceptable, particularly where there are examples of similar building line extensions in the immediate surrounding area. The visual impact of the development is discussed in the following section.
- 7.3.3. The application drawings indicate that a 2m capped block wall would be provided along the north-west boundary, adjacent to the footpath. This would be an appropriate treatment from the point adjacent to the front of the dwelling, but it would not be appropriate forward of the front plane of the house. A low-level wall would be adequate in this area for the purposes of delineating public and private lands, whilst also protecting the visual amenities of the area. This aspect of the development can be controlled by condition.
- 7.3.4. No details of proposed front and rear garden boundary treatments have been provided. A similar low-level wall would be appropriate along the front garden boundary and a wall or fence of minimum height 1.8m is required along the rear garden boundaries, to ensure privacy is maintained for occupiers on all sides. This can also be controlled by condition.

### **7.4. Visual Impact**

- 7.4.1. The Planning Authority's refusal of the proposed development referenced particular concerns in relation to the visual impact of a proposed detached house, which was considered to be out of character with adjoining dwellings, the pattern of development and street scene, where corner sites contribute to the open character of the area. I consider the site to be capable of accommodating an additional dwelling and, whilst I accept that there would be a minor impact in visual terms, it would not be detrimental to the visual amenity or character of the area.
- 7.4.2. Whilst the layout of both Sycamore Avenue and Maple Avenue originally incorporated open corner plots, the character of the area has changed over time and it was evident on my visit to the site that a number of the corner plots have been infilled, through either house extensions or the provision of an additional dwelling. As examples, I would refer the Board to 1 Maple Avenue, 37 Maple Avenue and 1 Maple Lawn, each of which is in the immediate vicinity of the subject site and each of which incorporates a side garden house within its plot. There are a number of other similar examples in the surrounding area.

#### **7.5. Residential Amenity**

- 7.5.1. The house appears appropriately sized, internally, meeting or exceeding development plan minimum standards in relation to overall size, the size and layout of individual rooms and the level of storage space provided. Adequate private open space would also be provided to the rear and retained private open space for the donor property would also be adequate.
- 7.5.2. No overlooking of neighbouring properties would arise, where the two north-facing first floor windows are proposed to incorporate opaque glazing.

#### **7.6. Parking and Access**

- 7.6.1. Proposed parking provision is in accordance with development plan allowances for a 3-bed dwelling.
- 7.6.2. In relation to the access arrangements for both sites, I consider the 3m wide access to the donor property would be acceptable but the proposed 4.3m width for the proposed house is excessive. In this corner location, an access of maximum width 3.6m would allow appropriate access to the site, whilst limiting the impact of the development on the footpath. This can be controlled by condition.

- 7.6.3. An existing in-street tree would be removed in order to facilitate the proposed vehicular accesses. I note that the Planning Authority's Parks and Green Infrastructure division had no objection to the loss of this tree but, requested that a €500 fee is paid towards the cost of a replacement tree. There is provision under Section 48(2)(c) of the Act for a *'special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.'* I consider this financial contribution request falls within the scope of Section 48(2)(c).
- 7.6.4. A tree bond was also requested, to ensure that other in-street trees would be protected and maintained. Given the close proximity of a number of street trees to the north-west site boundary, I consider the bond request is reasonable.

## 7.7. Other Issues

- 7.7.1. I note from previous Planning Authority reports in relation to this site that there is an Irish Water foul water sewer routeing to the north-west of the proposed house. A 3m setback is maintained by the proposed development and I note, in this regard, that Irish Water has no concerns relating to the proposal.
- 7.7.2. The Transportation Planning section also requested that details relating to the construction of the west-facing gable wall should be designed, supervised and certified by a suitably qualified person, due to the presence of the wall within less than 2m of the boundary it faces and its close proximity to the adjoining footpath/road.

## 7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the proposed development, which is on residentially zoned and serviced lands, 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 proposed development be granted, subject to conditions as set out below.

## 9.0 Reasons and Considerations

9.1. Having regard to the 'RS' zoning which applies to the site under the Fingal County Development Plan 2017-2023, under which residential development is permissible, together with the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would be in keeping with the character of the area and would not seriously injure the amenities of the area or the amenities of properties in the vicinity. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Boundary treatments shall be provided as follows:</p> <ul style="list-style-type: none"><li>• Along the north-west site boundary, behind the Sycamore Avenue building line, a 2m capped and plastered wall shall be provided.</li><li>• Along the shared rear garden boundary with the donor property a wall or fence of minimum height 1.8m shall be provided.</li><li>• Forward of the Sycamore Avenue building line, a capped and plastered wall of maximum height 900mm or hedging of maximum height 900mm shall be provided and maintained.</li></ul> <p><b>Reason:</b> In the interest of visual amenity and to protect residential amenity.</p>

3.	<p>The vehicular access serving the proposed house shall have a maximum internal width of 3.6m.</p> <p><b>Reason:</b> In the interests of visual amenity and pedestrian safety.</p>
4.	<p>Prior to the commencement of development, a bond shall be lodged with the Planning Authority, or such other security as may be acceptable to the planning authority, to secure the satisfactory protection of street trees adjacent to the north-west property boundary from damage during the construction phase. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory protection of street trees in the interest of biodiversity and visual amenity.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>A naming and numbering scheme for the development shall be submitted and agreed with the Planning Authority prior to occupation of the dwelling.</p> <p><b>Reason:</b> In the interest of clarity.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the replacement of an existing street</p>

	<p>tree which is required to be felled as part of the development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p><b>Reason:</b> It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
9.	<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> <p><b>Reason:</b> 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.</p>

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Barry O'Donnell  
Planning Inspector

28<sup>th</sup> October 2020.