



An
Bord
Pleanála

Inspector's Report

ABP-308023

Development	Construction of 2 houses (3-storey semi-detached), new vehicular access, car parking and associated works.
Location	59 Stillorgan Wood, Stillorgan, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0958
Applicant(s)	Vincent O'Farrell
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third-Party
Appellant(s)	Francis Cassidy Geraldine O'Connor
Observer(s)	Niall Clancy
Date of Site Inspection	30 th October 2020
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site relates to the side garden of a house situated at the end of cul-de-sac within an established low density housing development (late 1970s/early 1980) of two-storey detached houses located between Stillorgan and Kilmacud and just north of Sandyford Industrial Estate/Business Park and the Stillorgan Luas stop . The site has an area of 446sq.m. and width of 12m as measured from the front building line of no. 59 and the eastern site boundary. It extends forward of the front gardens to join with the site on the opposite side of the road and is similarly walled and screened from public view from the cul-de-sac and from the other side.
- 1.2. The site has frontage onto St. Raphaela's Road where there is a tree planted grass margin with a cycle track between the houses and the road carriageway. There are some private pedestrian accesses onto St. Raphaela's Road including one from the subject site.
- 1.3. The character of the development is derived from its parkland type setting – a feature that is most prominent at the entrance to the development off the Kilmacud Road and also evident in the more subtle elements of layout such as the random staggering of building lines, detached houses with boundaries defined largely by lawns and hedges rather than walls. The houses have a distinctive gabled façade incorporating large elegant windows. Some houses have made minor alterations and there is no obvious deviance from the prevailing character on approach to the site from the main access road. The exception is a large contemporary house constructed to the side of the opposing house on the same road as the site, No. 60A and similarly fronting onto St.Raphaela's Road from where it is highly visible.

2.0 Proposed Development

- 2.1.1. The proposed development as varied and clarified in further information comprises the following:
 - Two semi-detached houses described as two-storey with part 3rd level.
 - House A(139.8 sq.m):
 - 2 bed 15.82m deep x 4.999m wide (external measurements)

- Ground floor: open plan kitchen dining living with separate reception room utility and store
- First floor: two double bedrooms , study, internal light well and 2 bathrooms,
- Second level: sunroom 10.9 sq.m. with roof terrace. Open spaces comprises a ground floor rear garden and the roof terrace.
- House B(153.1 sq.m.): This has the same accommodation as House A with a slightly larger footprint and roof terrace due to a stepping forward of the building line and absence of light well. It also incorporates windows in the side elevation that overlook St. Rapahelas' Road.
- The houses are set back from the boundary with St. Raphaela's Road .
- 2 car park spaces are provided for each dwelling.
- The original house at no. 59 will retain a back garden of 60 sq.m.

2.1.2. A tree survey – Arboricultural assessment, Impact Statement and Method Statement was submitted as further information.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following request for further information and clarification of additional information the Planning Authority decided to grant permission subject to 11 conditions of a standard nature.

- Condition 3 restricts use of roof.
- Condition 5 requires specific surface water drainage arrangements.
- Condition 6 refers to boundary details .e g. 1.1m high wall.
- Condition 8 requires protection of trees external to site.

3.2. Planning Authority Reports

3.2.1. Planning Report: The report refers to :

- Development Plan policy on densification and development standards including those specifically for infill housing in side-gardens.
- Objections to development regarding building lines, nuisance, standards and parking.

- The need to address issues relating to floor area, overlooking from roof terrace, relationship with St Raphaela's Road and the need for a setback, boundary treatment to front , pedestrian access, protection of trees, surface water drainage. These matters were substantially addressed to the satisfaction of the planning authority in further information and clarification of further information.

3.2.2. Other Technical Reports

- Drainage Division - Further information and clarification was sought and in a final report on the clarified matters there is no objection subject to conditions: The surface water generated by each house (roof and pavements) shall not be discharged to the sewer but shall be infiltrated locally to a permeable paving or similar as indicated in the application. The permeable paving shall not have an overflow and shall have no impact on foundations or neighbouring properties. If infiltration is not a feasible solution, then, prior to development, the applicant shall prove that by submitting a report signed by a Chartered Engineer, showing a infiltration test (with result, photos etc) and shall propose an alternative SuDs measure.
- EHO: No comment

3.3. Prescribed Bodies

- Irish Water – no objection subject to conditions.

4.0 Planning History

- 4.1. An Bord Pleanála ref refers to refusal of permission (overturning a grant) for houses on a corner site at 135 Stillorgan Wood. The reason states:

Having regard to the pattern of development in the area, the location of the proposed development on a prominent corner site, its limited setback from the roadside boundary and the design of the house, it is considered that the proposed development would be out of character and visually obtrusive at this location, would seriously injure the visual amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board had regard to the pattern of development in the area, the prominent location of the proposed development on a corner site and its limited setback from the road and its design and did not agree with the Inspector's assessment that it would not have an adverse impact on the area or the streetscape.

5.0 Policy & Context

5.1. Development Plan

- The objective for the site is 'To protect and/or improve residential amenities.' (A)
- The development plan advocates densification of the suburbs in line with national strategy. (Section 2.1.3.4)
- **Chapter 8** sets out housing standards - as cited in planning authority report.
- **Section 8.1.1.1. Urban Design Policy UD1** sets out that all development is of high-quality design that assists in promoting a 'sense of place'. The promotion of the guidance principles set out in the 'Urban Design Manual - A Best Practice Guide' (2009) and in the 'Design Manual for Urban Roads and Streets' (2013).
- **Section 8.2.3.4 (vii)** refers to infill sites. Such proposals shall be considered in relation to a range of criteria including respecting the massing and height of existing residential units.
- **Section 8.2.3.1** refers to the objective of the Council to achieve high standards of design and layout and to foster and create high quality, secure and attractive places for living.
- **Section 8.2.3.5** refers to the general requirements for residential development including habitable room sizes.

6.0 Natural Heritage Designations

- 6.1. The nearest European sites are South Dublin Bay SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA (site code 004024) about 3.2km northeast of the site.

7.0 Environmental Impact Assessment - Preliminary Examination

7.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 The Appeal

8.1. Grounds of Appeal by Geraldine O'Connor

8.1.1. A third-party appeal has been lodged by Conor Sheehan Planning Consultant on behalf of the owner of no. 63 Stillorgan Wood. The appellant is not opposed in principle to the development of the site but the following design aspects are at issue:

- The three-storey design is considered incomprehensible in view of the precedent set by the required infill approach at no.135 following a refusal on appeal. Other infill has replicated the key design features.
- The proposal is visually obtrusive in that :
 - The eaves and ridge heights should be consistent with the existing dwellings.
 - The design is bulky with a flat roof at the top level .
 - The breach of building line by 3.1m is inconsistent with character.
- Does not comply with section 8.2.3.4 of the development plan.
- The height at 8.3m as compared to 6.59m is excessive .
- Out of character with open plan front lawns.
- Loss of trees.
- Overlooking.
- Open space is deficient.
- Impact on no. 59 with reduced open space and overshadowing.
- In the event of permission a number of conditions are requested regarding terrace use, parking and increase in obscured glazing.

8.2. Grounds of Appeal by Frank Cassidy

8.2.1. An second third party appeal has been lodged by the owner of the neighbouring dwelling at no. 58 Stillorgan Wood and issues raised relate to :

- Height – the proposal is inconsistent with existing dwellings and would be visually overbearing from different viewpoints and incongruous in the streetscape.
- Loss of sylvan character.
- Breach of building line.
- Detracts from amenity of no. 58
- The proposed sunroom and patio at 2nd level would injure amenity of surrounding properties.
- The construction works will give rise to noise and disturbance and should be limited to 8:00 to 1800 hr.

8.3. First Party Response

8.3.1. The applicant makes the following comments in response:

- The planning authority granted permission having satisfied itself that matters of nuisance, building lines and private open space and car parking and overspill were addressed.
- There is no set building line and the opposing infill is set forward from the adjacent dwelling. It is also of a modern style
- Overlooking of no.59 was addressed in amended plans .
- Private open space is within acceptable limits and exceeds Development Plan standards.
- Overshadowing would be of the rear garden of the proposed houses and of the parent dwelling was not considered significant by the planning authority
- The houses were modified by reducing bedrooms so as to increase setback of proposed dwellings.
- The matter of trees has been addressed by a condition seeking protection of the 6 trees bounding the site on St. Raphaela's Road.
- In respect of overlooking of no.59 the planning authority report is cited. The revised plans and elevations show an obscured glass screen to provided along the shared boundary with the parent dwelling. This would have a height of 1.7m

above 2nd floor level/terrace level and so no adverse overlooking on the rear garden of the parent dwelling would arise.

- The opposing windows at 4m relate to bathroom windows/opaque window.
- The roof terrace is restricted by condition. It, for example, excludes the roof of the sunroom and part of flat roof over the first floor
- Traffic and parking has been addressed by the planning authority by way of accepting the 4m entrance width and mechanical gates at this location. A 1.1m high boundary wall would facilitate sightlines.
- No objection to the construction hours of 8-6
- The proposal complies with the developemtn policies regarding utilising infill lands while respecting mature residential development.

8.3.2. The responses to the appeals appends 11 sets of documents which relate to documentation already on the file.

8.4. **Planning Authority Response**

- Grounds of appeal do not raise new issues which would justify a change in attitude.

8.5. **Observations**

8.5.1. Niall Clancy 39 Stillorgan Wood : This observing party lives in the house that adjoins the site to the north. He is concerned about overlooking, overshadowing and visual dominance of proposal and consequent impact on his house and garden. It is submitted that the 3 storey design is completely out of character as no houses in Stillorgan Wood have such a feature. Permission should be refused unless the third level is omitted.

9.0 **Assessment**

9.1. **Issues**

9.1.1. This appeal relates to a proposal for an infill development of two houses in a side garden at the periphery of an established low density residential enclave – Stillorgan Wood. From my inspection and review of the file, the key issues relate to:

- Principle /height/Streetscape
- Residential Amenity
 - Overshadowing
 - Overbearing
- Other matters: Car Parking/access/frontage/construction hours

9.2. Principle/height/streetscape

- 9.2.1. While the site is governed by the objective to 'to protect and/or improve residential amenities', the development plan also advocates densification in line with national policy and, most relevantly, in section 8.2.3.4 (vii) it sets out design criteria for accommodating development in infill sites.
- 9.2.2. The site is peripherally located at the end of a cul-de-sac at the edge of a residential development which is of a fairly uniform and intact character featuring well spaced detached two storey houses with a distinctive architectural style and boundary treatment. The eastern side of the site fronts St Raphaela's Road – a wide distributor road bounding the entire development to the east, It is tree lined along the site frontage and obscures views of the rear of the no.59 and neighbouring dwellings. The site is also screened by c.1.7m high wall from the cul-de-sac and this wall extends along the frontage of no.60A (opposing) and this is a departure from the open and low boundary treatment along front gardens in this development. This context however does give some flexibility to bookend the cul-de-sac with a development that deviates from a replication of existing houses types. The nature of the proposal is accordingly in my judgement, appropriate to this frontage in terms of scale and height. The house facing the site and similarly positioned already deviates from the house type. In this context I do not consider a three storey house that is flat-roofed and modest at the 2nd level and also includes references to the stepped streetscape and design elements to be unduly incongruous. On balance, I consider the contemporary design approach to constitute a positive contribution to the streetscape and urban design quality of the road subject to consideration of design details and interface with immediate surroundings. I consider the development to constitute an appropriate form of infill development for this location.

9.3. Overshadowing

- 9.3.1. The only overshadowing of any significance that may arise is within the curtilage of no.59 . it is argued effectively that a substandard development regardless of agreement should not be permitted as matter of precedence. I concur with this approach to a point, however I do not consider a 3m projection to the east and beyond the rear building line of no.59 to be particularly unusual juxtaposition for domestic urban expansion. I also accept that it may in certain circumstances be unwarranted in the case of a domestic extension for a detached house where there are alternatives, however in this case it is for the provision of 2 additional dwellings which is I consider reasonable justification. Furthermore the design has been modified to minimise impact. I accept however that a further extension for development within the curtilage to the rear may have an undue overbearing impact and a condition restricting ordinarily exempted development would regulate this.

9.4. Overlooking

- 9.4.1. The first floor windows are potentially a source of overlooking at right angles into the rear of no. 38, the side of which adjoins the site to the rear. There will however be no directly opposing windows from the rear elevation. In addition, the design includes angled windows that are oriented east in the direction of St. Raphaela's Road and cannot be considered to give rise to any overlooking.
- 9.4.2. The 2nd floor and terrace face the public realm and are adequately set back from opposing windows .A 1.7m screen is purposed to prevent overlooking and I consider this is of sufficient height. The terrace is also buffered by extensive roof space that is not part of the terrace. Screening and landscaping are necessary for the space to function as a usable private open space and further details should be submitted for the entire curtilage and prior written agreement. I consider this matter can be addressed by condition.
- 9.4.3. On balance, I do not consider the proposed development would, subject to minor alterations by way of condition, be unduly intrusive or injurious to residential amenity of adjacent properties.

9.5. Other matters

Trees

- 9.5.1. There are concerns about the impact on the mature trees bounding the site. I consider it appropriate to require the protection of the trees and to replant in the event of any root damage. A bond would offer security for such works.

Car parking, access and boundary wall

- 9.5.2. There is provision for two car park spaces per dwelling which is compliant with the development plan standards. In this regard I do not agree that the boundary should be lowered to 1.1m having regard to the adjacent boundary at no.60A and the general absence of such boundary frontage. I also consider the higher wall contribute the self-contained nature of the site and its capacity for a different architectural styling. Detailed design and standard can be addressed by condition.

Pedestrian access

- 9.5.3. Having regard to the proximity of the site to the Luas stop (250m from the St Raphaela's Road frontage) and educational facilities to the east and the existence of a pedestrian access from the site I consider it appropriate to relocate this to the driveway so as access can be retained and provided for both houses and possibly the parent house and support a reduced need for car usage. The site is I note just outside the Luas catchment for the S49 supplementary Development Contribution Scheme. As this relates to an existing arrangement I do not consider it to be material new issue.

Construction

- 9.5.4. The applicant is happy to comply with the slightly reduced construction hours of 8am to 6pm whereas the usual finish is at 7pm. I do not consider this a particularly onerous concession and consider it reasonable therefore to attach such a condition.

9.6. Appropriate Assessment

- 9.6.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and I do not consider that

the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

10.0 Recommendation

10.1. I recommend that planning permission for the proposed development be granted based on the following reasons and considerations, as set out below.

11.0 Reasons and Considerations

Having regard to the architectural design and massing of the proposed development and the location of the site at the periphery of Stillorgan Wood and fronting onto St. Raphaela's Road and in an area well-served by infrastructure and to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area, would not seriously injure the residential amenity of adjacent properties and would not detract from the character or visual amenities of Stillorgan Wood. 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 and as amended by detail lodged as further information on 21st May 2020 and clarified on 15th July 2020, 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.

Reason: In the interest of clarity

2. The front boundary wall shall align in height with the existing boundary wall along no. 60A and shall otherwise be in accordance with the requirements of the planning authority in respect of dishing of footpath which shall be carried out at the expense of the developer.

Reason: In the interest of orderly development.

3. The existing pedestrian gate shall be relocated to the shared driveway and available as shared pedestrian access to St. Raphaela's Road.

Reason: To maintain pedestrian permeability in the interest of sustainable development.

4. The roof terrace screening shall be 1.7m in height in the rear elevation and shall harmonise with proposed design. All details of roof terrace delineation, screening and access shall be submitted for written agreement with the planning prior to commencement of development on site.

Reason: In the interest of amenity and orderly development.

5. Details including samples of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. 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.

Reason: In the interest of Public Health.

7. Prior commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. All service cables associated with the proposed development (such as electrical, telecommunications, communal television and public lighting cables) shall be run underground within the site

Reason: In the interests of visual and residential amenity

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees to be retained as indicated in site plan of the Tree Survey lodged to the planning authority on 21st May 2020 and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on or alongside the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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

Reason: To secure the protection of the trees within and adjacent to the site.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, access, deliveries, parking, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of traffic safety and to protect the amenities of the area.

11. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

Reason: To protect the amenities of the area.

12. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

13. (a). The layout of car parking spaces including the access and boundary arrangement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The footpath in front of the proposed vehicular entrances shall be dishd at the road junction in accordance with the requirements of the planning authority and at the developer's own expense.

Reason: In the interest of traffic safety, orderly development and to ensure that adequate off-street parking provision is available to serve the proposed development.

14. 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.

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.

Suzanne Kehely

Senior Planning Inspector

30th March 2021