



An
Bord
Pleanála

Inspector's Report ABP-308637-20

Development	Construction of a two-storey dwelling in the side garden of dwelling.
Location	Castlefield Avenue, Castlefield Manor, Dublin 16.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0115
Applicant(s)	Chris and Helen Lawlor
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Chris and Helen Lawlor
Observer(s)	None received
Date of Site Inspection	22nd January 2021
Inspector	Fergal Ó Bric.

1.0 Site Location and Description

- 1.1 The L-shaped site, has a stated area of 0.134 hectares, comprises the curtilage of Mimosa, Castlefield Avenue, Castlefield Manor, Dublin 16, – a two-storey detached dwelling with a single-storey extension to the rear and a detached garage structure within the rear garden space. The site is located on the northern side of Castlefield Avenue. There is on-site parking to the front of the existing house, with sufficient space to park four cars. Site levels are consistent on site but fall by up to 1.75 metres in the south western (dogleg) part of the site, parallel with Castlefield Avenue.
- 1.2 To the north and west of the site are large, detached dwellings accessed off the Old Knocklyon Road, to the east is the Mimosa dwelling, within the same application site boundary and to the south is Castlefield Avenue and other residential properties facing onto Castlefield Avenue. The roadside boundary comprises a boundary wall at a height of approximately 1.2 metres, with a double splayed entrance to the appeal site. The site is open to Castlefield Avenue to the south west, along the western boundary with the rear of number 5 Old Knocklyon Road, is some low level planting and wicker fencing. The northern boundary comprises some mature planting which would be retained under the current development proposals..

2.0 Proposed Development

- 2.1. Permission is sought to construct a two-storey detached five bedroomed dwelling houses (approximately one hundred and ninety two square metres, sq. m.). A two-storey gable roofed house, similar in height, bulk and scale to that existing house immediately east of the current proposals on the site is proposed. The majority of the window opes are on the front and rear (north and south) elevations, with one first floor window on the side (western) gable at first floor level. There is no fenestration proposed on the eastern gable at first floor level. A gable-ended roof is proposed with a maximum ridge height of 9.3 metres, consistent with the height and roof detail of the Mimosa dwelling, immediately to the east within the same site. External materials would comprise a variety of smooth render and brick and tiled roofing. The house would be located in the side (western) garden of an existing two-storey house – together with the use of one half of an existing double entrance arrangement. It is

proposed to connect to the public water supply and to public foul sewer. Surface water is to be discharged to a soak pit.

- 2.2. Further information was submitted in relation to: Cross section and site level drawings in the context of the property to the west; The submission of a sunlight/daylight and overshadowing analysis report; Parking, entrance, roadside boundary treatment and visibility details at entrance point: Clarity on why extant planning permission on site has not been fully implemented, and how this would impact upon car parking provision within the site; Details of boundary treatments/retaining walls proposed. Details of floor to ceiling heights in proposed attic area and storage space within the proposed dwelling; Percolation test results and surface water management proposals for the site; Access to entrance point given the existence of a tree in the grass verge; Clarity with regard to the red line application site boundary.
- 2.3. The appellants submitted a number of accompanying reports as part of the additional information planning documentation response including a soil percolation test report including surface water management proposals and a daylight/sunlight and overshadowing analysis report.
- 2.4. The appellants submitted a revised dwelling design, roof profile, parking, entrance width, entrance pier and roadside boundary heights as part of their appeal submission, received by the Board on the 11th day of November 2020.

3.0 Planning Authority Decision

- 3.1 By Order dated 16th day of October 2020, South Dublin County Council (SDCC) issued a notification of decision to refuse planning permission for four reasons, as follows-

1. Having regard to:

- the topography of the site in general,
- the one and a half storey dwelling to the west and its location within its own site

- the significant level difference between the proposed dwelling and the existing dwelling to the west,

The proposed new dwelling by reason of its excessive height and depth (front to back) proposed and the proximity of the proposed structure to a shared boundary and neighbouring residential property, including habitable room windows and the private amenity space, would result in a feature that would be overbearing and create an unacceptable sense of enclosure to the detriment of the amenity of the neighbouring property to the west.

Thus, the proposed development would seriously injure the amenity of property in the vicinity and would be contrary to the zoning objective for the area which seeks to protect or improve residential amenity and would therefore be contrary to the South Dublin County Council Development Plan 2016-2022 and the proper planning and sustainable development of the area.

- 2 Having regard to the proposed vehicular access for the proposed and existing dwellings including the pillar heights and widths, the proposed parking to the detriment of pedestrian and vehicular safety. safely manoeuvre within and access and egress the site safely and the location of a street tree, it is considered that the proposed development would generate a traffic hazard and endanger public safety. The proposal would, therefore, be contrary to the proper planning and the sustainable development of the area.
- 3 The proposals would result in consequences for the successful implementation of existing permission SD17A/0163 and would result in unsafe traffic conditions due to the changes required to the front parking layout. The proposal would, therefore, result in a traffic hazard and would be contrary to the proper planning and the sustainable development of the area.
- 4 Given the topography of the site and the proposed siting of the boundary wall in a visually prominent location and adjacent to the rear amenity space of the neighbouring property to the west of the site, the proposals would have an unacceptable visual impact on the site and surrounding area. The proposals would, therefore, contravene Policy H16 of the South Dublin County Council Development Plan 2016-2022 and the proper planning and sustainable development of the area.

4.0 Planning History

The following is the relevant planning history pertaining to the appeal site.

On site:

SD17A/0163-In 2017 Planning permission was granted for the construction of a two storey, double fronted, five bedroomed house with a converted attic space and six rooflights, a detached double garage, boiler house and garden shed. Drainage arrangements to remain as permitted under SD11A/0065 and as amended under SD15A/0299, new pedestrian and vehicular access, boundary walls and new vehicle crossover and all ancillary site works. This permission has been enacted, in that the dwelling is constructed and occupied, however, the detached double garage to the east of Miimosa has not been constructed.

5.0 Policy Context

5.1. Development Plan

The relevant document is the South Dublin County Development Plan 2016-2022. The site is zoned RES where the objective is “To protect and/or improve residential amenity”. Section 11.3.2 (ii) of the Plan addresses corner/side/garden sites, and states-

- 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.
- Corner development should provide a dual frontage in order to avoid blank facades and maximise surveillance of the public domain.

Housing Policy H16: Steep or Varying Topography Sites

It is the policy of the Council to ensure that development on lands with a steep and/or varying topography is designed and sited to minimise impacts on the natural slope of the site.

H16 Objective 2:

To avoid the use of intrusive engineered solutions, such as cut and filled platforms, embankments or retaining walls on sites with steep or varying topography.

Section 11.4.2 Car Parking Standards

Table 11.24 Maximum Parking standards (Residential development)

Section 11.4.4- Car Parking Design & Layout

5.2. Natural Heritage Designations

None relevant.

5.3. **Environmental Impact Assessment - Preliminary Examination**

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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 **The Appeal**

6.1 Grounds of Appeal

The first party appeal by Chris and Helen Lawlor was received by An Bord Pleanála on 11th day of November 2020, and can be summarised as follows-

Design and layout:

- The dwelling is sufficiently set back from adjoining dwellings and would not result in an overbearing appearance, overlooking or overshadowing.
- The appellants have submitted revised proposals as part of their appeal submission in the form of a reduced dwelling height, altered roof profile and modified entrance arrangements.

Residential Amenity:

- The site has the capacity to absorb the development without adversely impacting upon adjoining dwellings.
- The western boundary treatment is the same as that permitted by the Planning Authority under SD17A/0163 and has been agreed with the owners of the residential property to the west. A letter of agreement (subject to conditions) from the neighbours to the west has been submitted.
- The Planning Authority have failed to acknowledge that the western site boundary treatment, in the form of a wall was permitted under SD17A/0163.
- It would be unfair to refuse permission for a boundary treatment that was previously permitted and can be constructed under the conditions of SD17A/0163.
- In order to ensure that the neighbouring residential amenities are protected, the height and profile of the roof have been altered as set out within the appeal submission documentation.
- No overlooking would arise as there is only one side gable window, that of an ensuite bathroom which would have obscured glass.
- The attic space has been changed from habitable space to storage space and the attic stairs removed, thus allowing for the reduction in the proposed ridge height of one metre from that originally proposed.

Parking and Access:

- The revised access/egress arrangements, parking layout and front boundary details, would not have an adverse impact upon traffic safety.
- The area is well served with two bus routes running along the Ballycullen Road which link into the Luas services providing excellent connectivity across Dublin.
- The revised access arrangements have addressed the traffic related concerns highlighted by the Local Authority.
- The revised splayed entrance design provides adequate visibility in terms of protecting pedestrian safety.
- Within the revised proposals, the entrance widths have been increased to 3.6 metres each, entrance piers would be 1.1 metres in height, wing walls and front boundary walls would be 0.9 metres in height, thus improving visibility at the entrance areas. These revised proposals would accord with the standards for entrances as set out within the Development Plan.
- The double entrance arrangement permitted by the Planning Authority under SD17A/0163 requires the removal of a tree from the grass verge along the site frontage with Castlefield Avenue. The location of the proposed entrance similarly conflicts with the location of the tree in the verge. The young tree is to be replaced at an alternative location a small distance away and the cost of same would be borne by the appellants.
- The appellant has submitted a revised car parking layout, front boundary details and access/egress proposals as part of their appeal submission.
- The appeal site is located within a quiet residential neighbourhood with very low volumes of traffic.
- There are no records of traffic accidents in the area.
- A wider and safer access would be provided under the revised proposals.
- The amended access and parking proposals have comprehensively addressed the items raised in a number of the Council's refusal reasons.

Other Issues:

- The proposals accord with national planning policy in terms of being an urban infill serviced site within walking distance of public transport, shops, services and amenities.
- The site is zoned residential and therefore the principle of the development is acceptable.
- The neighbours to the west have submitted a letter of support where they have outlined their satisfaction with the revised design proposals subject to a number of conditions.
- The revised proposals would comply with the provisions of the Development Plan, the zoning objective of the site and the proper planning and sustainable development of the area.

6.2 Planning Authority Response

Response received outlining the following:

- The Planning Authority has outlined that it would like a number of specified conditions to be attached to a decision in the event of planning permission being granted.

7.0 Assessment

7.1. General Comment

The principle of erecting a house in the side garden of Mimosa, Castlefield Avenue, Castlefield Manor, Dublin 16 is not at issue in this instance, rather the parking and access proposals and potential impact upon the neighbouring residential properties. The following are therefore, considered to be the core planning issues that arise from the appeal submission:

- Principle of Development
- Residential Amenity
- Parking and Access
- Other issues
- Appropriate Assessment

7.2. Principle of Development

7.2.1 The site is zoned RES as per the Development Plan where the zoning objective to: To protect and/or improve residential amenity. Therefore, the principle of the development would be acceptable, subject to an appropriate design and layout being presented, and that that the residential amenity of neighbouring properties is respected, and that suitable access and parking arrangements are provided. These matters will be addressed in detail below.

7.3. Residential Amenity

7.3.1 There is a differential in ground levels of approximately 1.75 metres between the appeal site and the levels within the property to the west, at number 5, Old Knocklyon Road. Therefore, there would be potential to impact upon the amenities of the property to the west. The issues of varying topography in this vicinity and the resultant potential to impact upon the rear amenity space of number 5 are also acknowledged. However, it is noted that the Planning Authority permitted a boundary wall of similar height along the western boundary of the site under SD17A/0163, in the same location as proposed within the current proposals, Therefore, the principle of the boundary wall in this instance is acceptable. It is noted that planning permission under SD17A/0163 remains live and valid. I also note the letter of support from the residents of number 5, which have stated their support for the boundary treatment proposals, in the form of a boundary wall, subject to it being constructed in advance of commencing the construction works of the proposed dwelling. Therefore, I consider it reasonable that the boundary wall be permitted, in order to respect the residential amenity of neighbouring residents and in accordance with the zoning objective pertaining to the site.

7.3.2 The appellants submitted revised dwelling design proposals as part of their appeal submission whereby the ridge height has been modified from gable ended to a hipped roof and the ridge height has been reduced by approximately one metre, to 8.3 metres. They have omitted the habitable space from the attic area and the stairs to the attic area. These design modifications will also assist in reducing the impact upon the neighbouring properties and the neighbours within number 5 have

expressed satisfaction with the revised dwelling design proposals. I, therefore, consider that the design revisions provide for a more respectful design having regard to the amenities of the neighbouring residents.

7.3.3 A daylight/sunlight analysis was submitted and illustrates that the rear garden space of number five, Old Knocklyon Road would be impacted upon, by virtue of overshadowing, in the morning time. However, this overshadowing would be for a brief period in the morning and would impact most upon the eastern and north-eastern sections of the garden, rather than impacting upon the habitable space of the property. The impact upon that property, would not be so adverse, to warrant a refusal of planning permission.

7.3.4 In term of overlooking, it is noted that the appellants would have a large bedroom window serving a bedroom at first floor level on the rear (northern elevation). Within an urban environment, an element of overlooking is inevitable. The question is whether the extent of overlooking would unduly impact upon neighbouring amenities. However, given, the generous separation distances, from the nearest part of the proposed dwelling to the nearest neighbouring residential properties, the construction of a two-metre-high boundary wall along the western site boundary, any overlooking would be of the most north easterly parts of the neighbouring rear garden space. I am, therefore, satisfied that the proposed design and layout, will adequately respect the amenities of the neighbouring residential properties in the vicinity of the site. It is not considered that the proposal would result in an adverse impact upon the amenities of Number 5, Old Knocklyon, by reason of overlooking from the first floor bedroom windows.

7.3.5 In terms of overbearing, given the separation distances between the proposed development and the nearest part of number 5, Old Knocklyon Road would be in excess of 11 metres, I consider that the proposed development would not result in an unduly visually overbearing feature when viewed from the property to the west

7.3.6 Overall, in its current form, it is considered that the proposed development would not have an adverse impact upon neighbouring residential amenities by reason of loss of

light and overlooking and would not diminish their residential amenity so as to warrant a refusal of permission.

7.4. Access & Parking

- 7.4.1. The second and third reasons for refusal relate to the provision of insufficient space for the parking of two vehicles for the existing and proposed dwellings, in terms of manoeuvrability and impact upon pedestrian safety by virtue of the narrow entrance widths and the heights of the entrance piers, wing walls and front boundary walls. The appellants have submitted revised proposals whereby the parking layout has been modified to provide for greater manoeuvrability within the bounds of the existing and proposed dwellings on site, where turning internally within the site would be possible as part of a three-point turn manoeuvre. This is considered acceptable and would be consistent with manoeuvres of vehicles internally within neighbouring residential properties.
- 7.4.2. In terms of the entrance widths, the existing widths would be increased to 3.6 metres, the entrance piers reduced to a height of 1.1 metres and the wing walls and roadside boundary walls would be reduced to 0.9 metres, all in accordance with Development Plan standards. I note that the revised proposals, submitted as part of the appellants appeal submission provide for two spaces for each dwelling on site in accordance with Table 11.24 of the Development Plan, regarding car parking standards for residential development. The acceptability of the car parking rate should be considered in light of proximity to public transport infrastructure and local services. The appeal site is located approximately 0.34 kilometres south east of two bus stops (no's 4749 and 4760) along the Ballycullen road, and within one kilometre of Knocklyon Shopping Centre. On balance, it is considered reasonable that the revised car parking proposals would provide sufficient scope to manoeuvre vehicles within the curtilages of both dwellings and not result in the creation of a traffic hazard.
- 7.4.3. With regard to the width of the access, the revised proposals would provide for the widening of the existing double entrance from approximately 2.7 metres, and would provide the existing and proposed dwellings with their own entrance widths of 3.6

metres. This would require the removal of an existing entrance pier. A splayed double access would be provided for. The revised entrance arrangement would provide each dwelling with their own separate and private parking areas and front garden amenity areas. The public footpath would be dished and the verge graded to provide for the widened access arrangement. I am satisfied that the revised double access, provides for sufficient width to develop a safe access arrangement for the existing and proposed dwellings, in accordance with the Development Plan standards. The piers, wing walls and roadside boundary wall would also be lowered to comply with Development Plan standards in order to optimise pedestrian safety along the public footpath.

- 7.4.4. Overall, with the revised parking and access arrangements, it is considered that the proposed development would not give rise to the creation of a traffic hazard and would provide sufficient parking space for the existing and proposed dwellings and would therefore, accord with the proper planning and sustainable development of the area.

7.5. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered 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**

I recommend that planning permission be granted for the following reasons and considerations.

8.1. **Reasons and Considerations**

Having regard to the location of the site on residentially zoned lands in the South Dublin County Council Development Plan, to compliance with the development management standards for side garden development in the South Dublin County Development Plan 2016-2022, to the revised layout, design, parking and access proposals submitted to the Board, it is considered that subject to compliance with conditions set out below, the proposed development would not result in the creation

of a traffic hazard, or seriously injure the residential amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Board on the 11th day of November 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed 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. Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the 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.

4. The applicant shall enter into water and waste-water connection agreements with Irish Water, Prior to the commencement of development.

Reason: In the interest of public health.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interests of public safety and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0700 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.

Reason: In order to safeguard the amenities of property in the vicinity.

8. Prior to commencement of development details of a hard and soft landscaping plan for the site incorporating native/indigenous species shall be submitted to and agreed in writing with the Planning Authority. A timeframe for the implementation of the landscaping proposals shall also be submitted.

Reason: In the interest of visual amenity.

9. 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.

- 10 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 acceptable to the planning authority, to secure the satisfactory reinstatement of the road and footpath, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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 ensure the satisfactory restoration of the public footpath and road in the interest of residential amenity and traffic safety.

- 11 a) A two-metre high screen wall shall be erected along the western boundary of the appeal site prior to the commencement of construction of the proposed dwelling.

b) Details of boundary treatments within the remainder of the site shall be agreed in writing with the Planning Authority prior to the commencement of development.

Reason: To protect the residential amenities of neighbouring residential properties.

- 12 The formation of the vehicular access to the site, entrance pier, wing wall and roadside boundary heights, the dishing of the public footpath and the grading of the roadside verge shall be completed in accordance with the details as submitted to the Board on the 11th day of November 2020. These works shall

be completed in full by the developer and be subject to the written agreement of the Local Authority, and at no expense to the Local Authority.

Reason: In the interest of orderly development and traffic safety.

Fergal O'Bric,
Planning Inspectorate.

3rd February 2021