



An
Bord
Pleanála

Inspector's Report 309730-21

Development	Subdivision of property and construction of a detached 2-storey house in the side garden; relocation of vehicular entrance; provision of new vehicular entrance; alterations to existing house; associated site works.
Location	2A Durham Road, Sandymount
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3977/20
Applicant(s)	Hugh Mulcahy
Type of Application	Planning permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Hugh Mulcahy
Observer(s)	Paula Clancy & Niall McElroy Peter & Jill Wolfe
Date of Site Inspection	8 th May 2021
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located on Durham Road, Sandymount, which is a suburban road linking Gilford Road and Newgrove Avenue, just to the east of the village green. Durham Road runs parallel to Strand Road and is approx. 100m inland. It is a low-density suburban street of primarily 2-storey semi-detached dwellings dating from the 1960s. Gilford Road is a more mature residential street with large houses on generous plots, with some apartment development. The site of the appeal is situated just to the north of the corner of Gilford Road and Durham Road on the western side of the street and c.300m to the south of Sandymount village green. The houses are generally set back from the road with front garden walls and individual vehicular entrances and mature gardens.
- 1.2.** The site area of the appeal site is given as 0.0424ha (and 0.0189ha for the site of the proposed dwelling). It consists of a side garden to the south of the dwelling known as No. 2A Durham Road. The existing dwelling is of late twentieth century construction and is 2-storeys in height with a mansard roof with windows on the front roof slope. It is an infill dwelling to the rear of No. 26 Gilford Road. The floor area of the existing house is given as 141sq.m. The site is roughly rectangular in shape. It bounds the rear of No. 26 Gilford Road to the south, No. 28 Gilford Road to the west, and a further infill dwelling (2d Durham Road) to the north. There is a front garden which is delineated by a stone wall along the frontage with Durham Road, with an inset pedestrian entrance as well as a vehicular entrance at the southern end. There is a mature tree in the corner between Nos. 2A and 2D Durham Road.

2.0 Proposed Development

- 2.1.** It is proposed to subdivide the site and to construct a new 2-storey dwelling in the side garden of the dwelling known as 2A Durham Road. The proposed dwelling would be detached and would have 2 bedrooms. The floor area of the proposed dwelling is given as 134sq.m. Alterations would be made to the existing dwelling by blocking up the side patio door and changing a front window into a patio door. A new window would also be provided in the rear wall of the house.
- 2.2.** A new vehicular site entrance would be provided from Durham Road to serve the existing dwelling and the existing entrance to No. 2A would be relocated slightly

further to the south to serve the new dwelling. The house would be set back a similar distance from the front boundary as the main dwelling and would be separated from the main dwelling by approx. 1.2 metres. The separation distances from the western boundary (with No. 26 Gilford Road) would be c.600mm and from the northern boundary would be c.900mm. The proposed garden/amenity area is to the front of the dwelling with an area stated as 57sq.m. and a depth of 7.4m. It would be screened and separated from the front garden (private amenity area) for the existing house by a proposed new rendered and capped 2m high wall. One parking space would be provided for each dwelling and the private amenity space for the existing house is stated as c.79m².

- 2.3.** The proposed dwelling is of a contemporary design with a shallow pitched roof of profiled zinc sheeting. The ridge height would be c.9.2 metres. The front (eastern) elevation includes a ground floor projection with substantial area of glazing in the form of patio doors. It is also proposed to incorporate a single velux window into the western roof slope. There are no windows proposed on the southern side elevation, with two first floor windows on the north elevation and one on the west elevation, each of which would be fitted with opaque glass. The external walls would have a brick finish where they face Durham Road and Gilford Road, but otherwise would be nap rendered and painted, and windows would be Aluclad.
- 2.4.** The application was accompanied by a covering letter from the agent together with a planning application report which sets out the design principles for the development and addresses the various elements of the Board's reasons for refusal (301794).

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for 1 reason which reads as follows:

1. Having regard to the provisions of the current Dublin City Development Plan (2016-2022) including section 16.10.9 and 16.10.10, the proposal providing for further subdivision of the original site on which No. 2A was constructed, would result in a new dwelling which would be substandard by reason of the

lack of private open space to the rear or side, and would also result in the loss of the private open space to the side of the existing house and reduce the separation distance from the boundary with No. 26 Gilford Road to less than 1 metre resulting in an overbearing aspect. The proposal would constitute overdevelopment of this restricted site, thus being seriously injurious to the residential amenities of the adjoining occupiers and to the visual amenities of the area and would set an undesirable precedent. The proposal would therefore be contrary to the provisions of the said plan and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Reference was made to the previous history on the site and to the fact that the existing dwelling had been constructed in the original rear garden of No. 26 Gilford Road. The main concerns related to the visual impact of the proposed development and the overdevelopment of the site. It was considered that the proposed design failed to comply with Section 16.10.9 and 16.10.10 of the CDP which required the development of infill dwellings within side gardens to have regard to the character of the street, demonstrate compatibility with the design and scale of adjoining dwellings, ensure adequate open space for both existing and proposed dwellings and avoid adverse impacts on the residential amenities of adjoining properties.

Regard was had to the reasons for refusal for the previous proposal and it was acknowledged that the current proposal had addressed many of the concerns such as the reduction in height and floor area, the provision of a pitched roof rather than a flat roof and the omission of the first-floor balcony. However, serious concerns remained regarding the relationship with No. 26 and to the restricted nature of the site of No. 2A. It was considered that the further subdivision and intensification of the original site would result in a new dwelling which would be substandard by reason of the lack of private open space to the rear or side, (notwithstanding the 2m high screen walls), and would also result in the loss of the private open space to the side of the existing house. It was therefore considered that it would result in overdevelopment of this restricted site with inadequate separation distances from the boundaries resulting in an overbearing and visually incongruous development.

3.2.2. Other Technical Reports

Drainage Planning - No objections subject to conditions.

Transportation – The proposed vehicular entrance was considered to be acceptable as it would be located on the south side of the bend in the road, which would be an improvement on the previous proposal for a new entrance to the north of the bend. This factor together with the proposed setback in the wall to improve access and egress sightlines would mean that adequate sightlines could be achieved. No objections subject to conditions.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third party observations

Objections received from four neighbouring properties, at Nos. 26 Gilford Road, No. 24 Gilford Road, No. 1 Durham Road and No. 3 Durham Road. The concerns raised are similar in content to those made in the observations on the grounds of appeal which are summarised below at Section 6.0. In brief, the main areas of concern related to the following matters:

- Overdevelopment of a restricted site
- Inadequate private amenity space
- Overlooking
- Proximity to rear boundary of No. 26
- Oppressive and overbearing impact on adjoining properties
- Traffic hazard
- Visually incongruous development
- Contrary to provisions of Development Plan

4.0 Planning History

ABP.301794-18 – Permission refused by Board following first party appeal against refusal (2516/18) for subdivision of site and construction of 3-storey house on side garden of No. 2A together with new vehicular entrance and alterations to existing house. There were 2 reasons for refusal. The first reason was based on overdevelopment of site, excessive scale and height of house, lack of sufficient useable private open space, inadequate separation distances from boundaries, overlooking of adjoining properties and the incongruous and overbearing nature of the development which would adversely affect the visual and residential amenities of the area. The second reason related to traffic hazard due to the location of the new entrance on a bend with restricted visibility.

3513/14 – Permission granted for 2m high wall and widening and relocation of gateway, provision of new vehicular and pedestrian entrance gates and provision for hardstanding for 2 cars.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1 The site is zoned 'Z1' for which the objective is to "To protect, provide and improve residential amenity". Section 14.8.1 seeks to achieve a wide range of residential accommodation within sustainable communities where residents are within easy reach of services and facilities. The indicative plot ratio for this zone is 0.5-2.0 and indicative site coverage is 45-60%.

Sections 16.10.9 and **16.10.10** encourage the consolidation of development by making efficient use of serviced residential lands subject to appropriate safeguards and standards including having regard to the following criteria for corner/side garden sites:

- Character of the street
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials.
- Impact on residential amenity of adjoining properties.

- Open space standards and refuse storage standards for both existing and proposed dwellings.
- Provision of appropriate car parking facilities and a safe means of access to and egress from site.
- Provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of front and side building lines.

5.2. Natural Heritage Designations

South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA lie approx. 150m to the east and North Dublin Bay SAC and North Bull Island SPA lie approx. 5km to the north-east.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against refusal. The main points raised may be summarised as follows:

- **Planning policy** – the proposed development is wholly in accordance with the national and local policy context which promotes the consolidation of growth in developed areas where it would result in a more efficient use of underutilised lands in areas that are well served by amenities and facilities. The site is located within walking distance of two DART stations and is just 4km from the city centre. The overall site area is 424m² and has a frontage of 11m to Durham Road. It is therefore submitted that it is appropriate in principle.
- **Previous refusal reasons addressed** – serious consideration has been given to the reasons for refusal set out in the previous decisions by the P.A. and the Board. It is submitted that each of the elements of concern have been addressed in the current proposal.

- **Design of proposed dwelling** – the design has been revised to a 2-storey house with a low-pitched roof. Although contemporary in approach, it is not stridently so and fits in well with the eclectic mix of dwellings of varying architectural styles, heights, materials in the surrounding area, (photographs provided).
- **Density** – the proposed development would increase the density of the site from 23.5dw/ha to 47dw/ha which is within the recommended 50dw/ha in the Development Plan for such areas that are extremely well served by amenities and facilities and highly accessible by public transport. It is also comparable to the densities achieved in several properties in the immediate locality as shown on Fig. 16 of the grounds of appeal.
- **Plot ratio and site coverage** – the proposed development complies with the recommended standards with a plot ratio of 0.66 for the overall site after subdivision and a site coverage of 37%. The floor area has also been reduced by 30% compared with the 3-storey dwelling that was refused by the Board.
- **Private amenity space** – it is submitted that the development plan requires that private open space is usually provided to the side or rear of the dwelling but that this is not an absolute requirement. It is stated that the minimum standard is 10m² of private open space per bedspace and that the provision here is 13m² and 14m² per bedspace for the existing and new houses, respectively. The provision of this space at the front/adjoining the footpath is not unusual for the area and does not compromise privacy due to the presence of the 2.1m high masonry wall. Furthermore, the location to the front provides a southerly and an easterly orientation which is more appropriate than to the rear.
- **Parking and access** – one space is provided per dwelling which is in accordance with the CDP standards. The P.A. Traffic section did not raise any concerns regarding the proposed access and parking arrangements. The speed limit on Durham Road has been reduced to 30kph and there is good visibility available at each entrance.
- **Overbearing aspect of proposed dwelling** – it is disputed that the reduction in the separation distance between No. 26 and the appeal site to less than 1

metre would give rise to an overbearing aspect. The ridge height of the proposed dwelling will match that of the existing dwelling, which at 9.2m will be substantially lower than the ridge height of No. 26 Gilford Road (15.73m). There are no windows in the gable wall facing No. 26 and the proposed dwelling is sited to the north of this dwelling and separated from it by a 2m high wall and an existing shed. Thus, there will be no overlooking, overshadowing and it will not be overbearing given the considerably lower height than that at No. 26.

6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

6.3. Observations on the grounds of appeal

Observations have been received from two third parties, the owner/occupiers of No. 26 Gilford Road (Peter & Jill Wolfe) and No. 24 Gilford Road (Paula Clancy & Niall McElroy). The issues raised in these observations may be summarised as follows:

- **Overdevelopment of a restricted site** – No. 2A was built in the back garden of No. 26 Gilford Road which has resulted in a very small back garden for such a large house. No. 2A was sited to maximise the privacy and amenity for both houses (2A and 26), and No. 2A has no back garden, (just side and front). The proposed development would introduce a second 2-storey house within 2 feet of the back wall of No. 26 and would completely destroy the amenity of both existing houses. The restricted nature of the site necessitates the provision of the private amenity space for both dwellings to the front of the houses which is out of character with the area.
- **Inadequate private amenity space** – the proposed tiny front gardens will be in the shade for most of the day due to the 2m high masonry screen walls and would result in ‘bunker’ type spaces. The proposal will destroy the amenity of the existing house (2A) which currently has sunlight in the side garden during the morning, mid-day and afternoon. The minimum standard of 10m² applies

to side and rear gardens. The size and quality of the garden of 2A will be greatly reduced by the loss of the side garden and by the introduction of a car parking space in what remains of the front garden.

- **Overlooking** – the siting of the proposed dwelling relative to the rear garden of No. 26 will mean that this garden will be overlooked by the front windows of the new house. These windows will also overlook the internal living space and rear garden of No. 24 Gilford Road which is on the opposite side of the road.
- **Oppressive and overbearing impact on adjoining properties** – the proposed dwelling would be 60cm from the back wall of no. 26 and a few metres away from the back door. There is a studio outbuilding in the rear garden of No. 26 which would have a 7.35m tall structure looming over it. This would result in an oppressive and overbearing impact.
- **Traffic hazard** – it is strongly disputed that the proposed development would not give rise to a traffic hazard. Durham Road is a narrow road and cars frequently park on the footpaths on either side of the road. It is also very close to Lakelands primary school (Gilford Rd) and during term time the traffic congestion is excessive. Cars driving south along Durham Road will not be able to see a car reversing out of the driveway, particularly if cars are parked along the road. The road width is reduced at the position of the new driveway which exacerbates the situation.
- **Contrary to provisions of Development Plan** – proposal does not comply with the standards and policies contained in the CDP as it fails to take account of the context and has a very poor relationship with established development on adjoining lands.
- **Discrepancies in submitted drawings** – several dimensions are pointed out in the submission from No. 26 which it is claimed are discrepancies in the submitted drawings. These relate to the stated site area, schedule of floor areas, etc. for both the existing and proposed dwellings. It is claimed that these anomalies provide misleading figures for plot ratios, site coverage etc.

7.0 Assessment

It is considered that the main issues arising from the appeal are as follows: -

- Principle of development
- Overdevelopment of site
- Impact on residential amenity
- Visual amenity
- Traffic hazard

7.1. Principle of development

The current Dublin City Development Plan 2016-2022 encourages residential consolidation and the efficient use of serviced as easily accessible lands and provides comprehensive advice and guidance on the provision of infill development, and in particular development on side gardens and corner sites (16.10.9/10). These policies are in accordance with national and regional policies which seek to increase residential densities in appropriate areas. Durham Road is within easy walking distance of two Dart stations and a QBC. It is located c.4km from the city centre and is in close proximity to the wide range of facilities and services available within Sandymount Village. It is considered, therefore, that the development of an additional house in the side garden of No. 2A Durham Road, is acceptable in principle. The policies and objectives of the CDP, however, make it clear that this is subject to appropriate safeguards and standards set out in Chapter 16. These objectives generally seek to achieve architectural integration which reflects the established pattern of development, the provision of appropriate and adequate private open space and the protection of residential amenities of neighbouring properties.

7.2. Overdevelopment of site

- 7.2.1.** The planning authority was concerned that the site of the appeal is already a restricted site which has been previously developed for infill housing, and that the proposed development would result in overdevelopment of the site. The observers

have expressed similar views, particularly in relation to what was considered to be an overbearing impact of the proposed dwelling on the neighbouring house to the south, the loss of privacy to several neighbouring properties and the inability to provide appropriate private amenity space for the two dwellings. The first party has pointed out that the proposed development represents an appropriate density in view of the policies to densify and consolidate growth in areas such as Sandymount, that the proposal complies with development standards such as plot ratio, site coverage and minimum areas for private amenity space, and believes that it would not adversely affect the residential amenities of neighbouring properties.

7.2.2. I would agree that the site of the appeal is constrained in that it is long and narrow. The original infill dwelling was, therefore, designed and sited to maximise the use of the street frontage and orientation of the site, whilst minimising the impacts on the residential amenities of adjoining properties, which are in very close proximity. No. 2A has been sited very close to the northern boundary with No. 2D Durham Road and to the western boundary which is a substantial rear garden to No. 28 Gilford Road. These boundaries are screened by mature vegetation. As a result, No. 2A has benefitted from an attractively sited and oriented front and side garden, which compensates for the absence of a rear garden. In addition, the distance from No. 26 Gilford Road has been maximised which provides an appropriate level of protection to the amenities of this property.

7.2.3. It is considered that the introduction of a further 2-storey house on the side garden of No. 2A, with an additional car parking space would significantly reduce the quality of the open space available to No.2A. The reduced amenity area would be confined to the front of the house and behind the stone wall, which would result in a restricted triangular space. Although the submitted plans indicate that this area would be 79m², it is considered that the main useable area is c.37-40m². This area would be shaded by the masonry walls (existing on frontage and proposed between dwelling) and by the existing house. In addition, the layout of the house is effectively single aspect as the windows on the ground floor face a wall and tall mature trees at a distance of 1.5m, the upper floor has no rear/side windows, and the patio door on the southern side wall would be removed.

7.2.4. Similarly, the proposed new dwelling would have its only amenity space to the front behind the masonry wall, and the external walls of the house would be just 600mm-

900mm from the southern and western boundaries, and c.1.2m from the existing dwelling house. This necessitates the provision of the majority of the windows and outlook from the house on the eastern elevation facing the street. The combination of these factors would result in a poor level of amenity for the occupants of both the existing and proposed dwellings. The siting of the proposed dwelling with its gable wall of c.7.35m in height, in such close proximity to the rear boundary of No. 26 Gilford Road would also adversely affect the outlook from that house and amenities of the rear garden.

- 7.2.5.** It is acknowledged that the revised design of the current proposal has reduced the scale, height and floor area of the proposed dwelling, but it is considered that these revisions would not be sufficient to overcome the concerns regarding overdevelopment of this restricted site.

7.3. Residential amenity of neighbouring properties

- 7.3.1.** The proposed dwelling would be setback from the front boundary by c.7.4m. This would be roughly in line with the eastern gable wall of No. 26 Gilford Road. As the private amenity space of that property is largely located to the east of this setback line, and the windows of the proposed dwelling are almost exclusively facing east, it is considered that the issue of overlooking is likely to arise. As stated previously, the siting of the proposed dwelling in such close proximity to the boundary (600mm) would also adversely affect the outlook from this property. It is considered, therefore, that the proposed development would seriously injure the residential amenities of this property.
- 7.3.2.** I would accept that the orientation of the proposed dwelling and the positioning of the proposed upper floor windows would give rise to some loss of privacy to the property at No. 24 Gilford Road and to the properties further north (1-3 Durham Road). However, it is considered that as the distance between these properties is generally around 22 metres or more and that the intervening space is a public road, it is not considered that the injury to the amenities of these properties would be unduly harmful.

7.4. Visual amenity

- 7.4.1.** The planning authority considered that the proposed development would result in an incongruous development in the streetscape. I would accept the first party's arguments that there is an eclectic mix of architectural styles, shapes and sizes of houses in the vicinity and that the design of the proposed development would not be unduly out of place. It would also be generally harmonious with the existing dwelling on the site. Furthermore, the scale of the dwelling has been reduced considerably compared with the previous proposal that was refused by the Board (301794). However, the siting and layout, combined with the design and scale of the current proposal, could result in the two dwellings being read as one long structure, which would have a monolithic appearance. This would be particularly evident when viewed from Durham Road and from the properties opposite the site.
- 7.4.2.** The gable of the existing dwelling (2A) is highly visible from the corner of Gilford Road and Durham Road. However, the design and materials, combined with the separation distance between it and No. 26 Gilford Road, enables it to blend in with the roofscape and general architectural style of the area. It is considered, however, that the proposed dwelling would occupy the intervening space and would alter this view quite significantly. The reduced separation distance would bring the plane of the building forward and would dominate the view from this junction in a northerly direction. It is considered that it would result in visual clutter and a sense of disharmony, and would represent an incongruous feature in the streetscape, which would adversely affect the visual amenities of the area. It is considered that it would also create an undesirable precedent for similar such development on infill sites in the area, which would undermine the objectives of the development plan for the area.

7.5. Traffic hazard

- 7.5.1.** The proposed additional vehicular entrance has been moved further to the south, compared with the proposal refused by the Board (301794). I note that the P.A. traffic engineers are less concerned by the revised location of the entrance as it is now to the south of the bend in the road, where visibility is better than to the north of the bend. However, the observers have pointed out that there is a problem with

parking congestion on Durham Road, which is narrow and generally has cars parked on both sides of the road. Furthermore, it was pointed out that Lakelands Primary School is located closeby on Gilford Road and that this results in cars being parked in a random and haphazard manner on the adjoining streets. It was submitted by the observers that a car reversing from the proposed driveway would not be seen by a car travelling down Durham Road towards Gilford Road. However, the first party has asserted that the speed limit has been reduced to 30kph on the road and that it would not result in a traffic hazard.

7.5.2. It is acknowledged that the visibility is better to the south of the bend than to the north of it. At the time of my inspection, which was at the weekend, there were no cars parked on the section of road between Gilford Road and the proposed entrance on the western side of the carriageway, but there were cars parked all along the opposite side of the road. However, the issue with a primary school close by is a universal one where spill-over parking at drop off and pick up times is commonplace. Thus, I would accept that the parking congestion is an additional factor that should be taken into account.

7.5.3. My main concern with the proposed access arrangements is that there would be two vehicular entrances in close proximity (c.7m apart) and a further existing vehicular entrance c.4.5m further south serving No. 26 Gilford Road. There are also some vehicular gates on the opposite side of the road on the outside of the bend. I am not convinced that the relocation of the proposed entrance to the south of the bend is sufficient to overcome the concerns regarding traffic safety. The combination of the parking congestion that is prevalent in the street with the multiple entrances and the siting of the proposed entrance close to a bend where visibility is restricted, would, in my view, give rise to a traffic hazard.

7.6. Environmental Impact Assessment

Having regard to the nature, size and location of the proposed development, 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.

7.7. Appropriate Assessment

South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) lie approx. 300m to the east. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

8.1 It is recommended that permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the established pattern of development in the vicinity, to the previous subdivision of the site and construction of an infill dwelling, it is considered that the proposed development which would introduce a further dwelling house into this restricted site, would result in overdevelopment and in a substandard form of development by reason of the lack of sufficient useable private open space for both the existing dwelling house at No. 2A and the proposed dwelling, and by reason of the proximity of the proposed dwelling house to adjoining residential properties would be visually incongruous and out of character with the existing pattern of development and of the streetscape, would result in overlooking of neighbouring properties and present an overbearing form of development, and as a result would seriously injure the amenities of properties in the vicinity and of the area. The proposed development would, therefore, be contrary to the provisions of the Dublin City Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the proposed new vehicular entrance on a bend in the road where visibility is restricted, combined with the presence of multiple entrances within a short stretch of road and the existing parking

congestion on the road, it is considered that the proposed development would endanger public safety by reason of a traffic hazard.

Mary Kennelly
Senior Planning Inspector

9th May 2021