



An
Bord
Pleanála

Inspector's Report ABP312453-22

Development	House and one off-street car space.
Location	36 Montpellier View, Tallaght, County Dublin.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD21A/0293
Applicant(s)	David Souhan & Others.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Third V Refusal
Appellant(s)	David Souhan & Others
Observer(s)	None
Date of Site Inspection	Click here to enter text.
Inspector	Hugh Mannion

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
4.0 Planning History.....	4
5.0 Policy and Context.....	4
5.3. Development Plan.....	4
5.4. Natural Heritage Designations	4
5.5. EIA Screening	5
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Planning Authority Response	5
6.3. Observations	6
6.4. Further Responses.....	6
7.0 Assessment	6
8.0 Recommendation.....	7
9.0 Reasons and Considerations.....	8

1.0 Site Location and Description

- 1.1. The application site comprises part of the side/rear garden of an existing house at 36 Montpellier View, Jobstown, Dublin 24. Montpellier View comprises 40 houses and is accessed off Fortunestown Road which, in turn, has access onto the N81 about 2kms southwest of Tallaght town centre. The area is residential in character with large areas of public open space.

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of a detached three bed houses with off street parking at 36 Montpellier View, Tallaght, County Dublin

3.0 Planning Authority Decision

3.1. Decision

Refuse permission

1. The proposed development would result in substandard private open space for the existing house and proposed house at 36 Montpellier View, Tallaght, County Dublin.
2. The proposed development would give rise to overshadowing/overlooking and seriously injure to the amenity of adjoining residential property and be contrary to the residential zoning objective for the site set out in the County Development Plan.
3. The County Development Plan Table 11.20 sets a target floor space of 92m². The development does not meet this standard and thereby contravenes the County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended refusal for the reasons set out in the manager's order.

3.2.2. Other Technical Reports

3.2.3. **Roads Department** requested further information in relation to the location of trees, street furniture and services in the vicinity of the site.

3.2.4. **Irish Water** requested further information in relation to proposed connection to services and the location of existing services in the vicinity of the site.

4.0 Planning History

No relevant history.

5.0 Policy and Context

5.1. The Sustainable Development in Urban Areas Guidelines for Planning Authorities in generally supportive of infill development is zoned and serviced urban areas and comments that the design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities.

5.2. In relation to privacy and security it makes the point that at the rear of dwellings, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows. However, such rules should be applied flexibly: the careful positioning and detailed design of opposing windows can prevent overlooking even with shorter back-to-back distances. Windows serving halls and landings do not require the same degree of privacy as, say, balconies and living rooms.

5.3. Development Plan

The South Dublin County Development Plan 22016-2022 is the relevant county development plan for the area with the Zoning Objective 'RES': 'To protect and/or improve residential amenity'

5.4. Natural Heritage Designations

Not relevant

5.5. EIA Screening

- 5.6. Having regard to the scale and form of the proposed development and foreseeable emissions therefrom the submission of an EIAR and carrying out of an EIA can be screened out at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The issues raised in the decision could have been subject to a request for further information.
- The rear garden remaining to the existing houses (number 36 Montpellier View) at 29m² meets the exempted development standards if a domestic extension is proposed. The planning authority is incorrect in calculating the private open space for the new house as only that behind the rear building line – properly considering the area behind the front building line gives a private open space of 82.5m².
- The opposing rear window calculations are incorrectly applied since the proposed house is set off at a 42-degree angle. The applicant would accept a condition in relation to glazing of this window or omitting it and lighting the room from the front only if considered necessary.
- The proposed development will not overshadow any adjoining property.
- The gross floor area of the proposed house is 92.35m². This meets the requirement of 92m² set out in the Sustainable Development in Urban Areas and in the South Dublin County Development Plan.

6.2. Planning Authority Response

- No new issues raised in the appeal.

6.3. Observations

- None

6.4. Further Responses

None

7.0 Assessment

7.1. Private Open Space.

- 7.2. The County Development Plan (Table 11.20) requires that three bed houses have a minimum rear garden area of 60m² and that after construction the existing house would be reduced to 46m² and the new house would have a garden of 29m². The appeal makes the point that exempted development regulations allow rear gardens to be reduced to 25m² and that the planning authority has miscalculated the private open space of the new house and that in fact it is 82.5m².
- 7.3. I agree with the planning authority that the remaining rear garden of number 36 is about 46m² and that this is below the Development Plan standards. The applicant claims that, properly calculated, the private open space available to the new house is more than 80m² and this is calculated as the space behind the front wall of the proposed house. The rear garden is irregularly shaped and it is possible that it exceeds 30m² but the appeal is missing the point of private open space. Private open space attached to dwellings is assumed not to be open to public view and to meet the ordinary domestic/recreational needs of occupants of the house. The applicant is counting the area which is alongside the footpath and occupied by a car space. I do not agree that this area can reasonably be included as private open space to serve the needs of the future occupants of the house.
- ### 7.4. Overshadowing/Overlooking.
- 7.5. The second reason for refusal references overshadowing/overlooking of adjoining property arising from the proposed development. The applicant makes the point that rear first floor window could be obscurely glazed or removed altogether thereby overcoming the overlooking issue and that since the site is generally north of adjoining development it would not give rise to overshadowing of nearby property.

- 7.6. The proposed development at its closest is 2.5m off the boundary with 37A Montpellier View and at a maximum of about 5.5m off the boundary with 37 Montpellier View. The proposed house is due east of these rear gardens and the proximity to the boundary will give rise to a perception of overbearing which will negatively impact on the amenity of those houses.
- 7.7. I agree that the bedroom window, could be obscurely glazed, to minimise overlooking of neighbouring property.
- 7.8. **Target Gross Floor Area.**
- 7.9. The planning authority states that the County Development sets out a target floor area for three bed houses of 92m² in table 11.20 of the plan but that the proposed house falls below this target. The applicant states that the planning authority's calculations are incorrect and that the proposed house exceeds this target. I consider that minor deviations from a target would be acceptable if the overall amenity available to future residents of new developments is acceptable. I accept the applicant's point that the proposed house meets an acceptable standard in terms of floor area and layout.
- 7.10. **Appropriate Assessment**
- 7.11. It is reasonable to conclude that on the basis of the information on the file, the scale and nature of the proposed development and the likely emissions therefrom that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site.

8.0 Recommendation

- 8.1. I recommend refusal.

9.0 Reasons and Considerations

The South Dublin County Development Plan sets a minimum of 60m² of private open space per three bed houses. Neither the existing house at 36 Montpelier View or the proposed house would meet this minimum standard. Therefore, the proposed development would give rise to substandard residential accommodation, would materially contravene an objective set out in the County Development Plan and be contrary to the proper planning and sustainable development of the area.

Hugh Mannion
Senior Planning Inspector

21st February 2022