



An
Bord
Pleanála

Inspector's Report

ABP-313841-22

Development	Construction of dwelling and all ancillary site works.
Location	No. 50A, Springvale, Edmonstown Road, Rathfarnham, Dublin 16.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD22A/0095.
Applicant	Brian Sheridan.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant	Brian Sheridan.
Observer	Eimear Perry.
Date of Site Inspection	22 nd day of September, 2022.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The irregular L-shaped shaped appeal site which has a given site area of 0.0307ha, comprises of the side garden of No. 50A Springvale, a two-storey detached dwelling on elevated ground c45m to the west of Owendoher River, and that forms part of the Springvale residential scheme. This scheme is predominated by medium density mainly two-storey semi-detached and terraced suburban type dwellings.
- 1.2. The site is located to the west of Edmonstown Road (R116) and just over 300m by the Springvale estate roads to reach this regional road. The M50 corridor at its nearest point as the bird would fly is located over 530m to the west.
- 1.3. The northern boundary of the site bounds a green open space. With this boundary significantly falling in level in an easterly direction. Similarly, the access serving the site which in its current form is shared by No.s 50 and 50A Springvale falls steeply downwards towards the eastern boundary of the site and the side garden area of No. 50A Springvale which is fenced off from this property occupies significantly lower ground levels and at the time of inspection of the site appeared to be in separate storage use.
- 1.4. This included a shipping container and varying building supplies stored on a gravel levelled base.
- 1.5. The topography of the site reflects the steep sloping nature of the river valley. No. 50A Springvale is separated from the side garden by a mixture of boundary treatments. With these including a high retaining wall, concrete posts, and timber fences with a separate point of access opening onto the front setback of No. 50A Springvale.
- 1.6. The eastern boundary of the site is also defined by a retaining wall with attached vertical timber privacy screening over. Immediately behind this boundary is the rear garden spaces of No.s 1 to 7 Springvale.
- 1.7. The site is located in a predominantly residential area in the suburb of Rathfarnham, just over 8km as the bird would fly to the south west of Dublin's city centre.

2.0 Proposed Development

- 2.1. Planning permission is sought for a two-storey two-bedroom dwelling (Note: 103m²) with mono-pitched roof, served by two car parking spaces and ancillary site works to the side of No. 50A Springvale. According to the submitted drawings the proposed dwelling would have detached built form with a maximum height of 6.385m, a width of 4.6m, depth of 13.970m and at first floor level to the rear would include a balcony. In addition, the planning application form indicates that existing new connection to public mains water and foul drainage is proposed. It further indicates that surface water disposal would be via a new soak pit.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority **refused** planning permission for the proposed development for the following stated three reasons:

- “1. *In the South Dublin County Development Plan (2016 - 2022) the site is zoned with the objective 'RES' 'to protect and/or improve residential amenity'. Due to its height and length along the east elevation, location, proposed first floor balcony to the rear and the extent of level changes, the proposed dwelling would result in significant overshadowing and overbearing of the adjacent dwellings to the east and adversely impact their residential amenity and therefore would neither protect nor improve residential amenity. Furthermore, having regard to the extent of level changes required on the site, the proposed development will adversely impact on the visual amenity of the area. Thus, the proposed development would contravene the RES objective, would seriously injure the amenity of property in the vicinity and would contravene the proper planning and sustainable development of the area.*
2. *The proposed development would intensify the use of an existing shared access, increasing the risk of a traffic accident, thereby endangering public safety by reason of traffic hazard.*

3. *Due to insufficient information submitted regarding requirements for foul and surface water drainage, the Planning Authority cannot be satisfied that the proposal would not be prejudicial to public health.”*

Decision date: 30.05.2022.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer’s report dated the 30th day of May, 2022, is the basis of the Planning Authority’s decision. It includes the following comments:

- Principle of the proposed development is acceptable.
- Concern is raised that the living room width and storage provision does not meet the minimum standards set out in the Development Plan nor does it comply with Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes Sustaining Communities, 2007.
- The proposed development would give rise to overlooking and overbearing of properties in its vicinity.
- The proposed dwelling would give rise to overshadowing of properties to the east of it.
- The proposed development would seriously injure visual and residential amenities of the area.
- Concern is raised that no clear boundary treatment has been submitted.
- Concerns are raised in relation to the extent of ground level changes on such a small site.
- The first-floor level balcony would give rise to overlooking of properties to the east.
- The internal courtyard may indicate a future intention to subdivide the dwelling.
- Reference is made to the Roads Section’s recommendation for refusal.
- No AA or EIAR issues arise.
- Concludes with a recommendation of refusal.

3.2.2. Other Technical Reports

Roads: Recommends refusal. This report states: *“the applicant has submitted drawings showing a proposed shared vehicular access arrangement between the existing No. 50A and the proposed No. 50B with an entrance width of 3890mm. This would result in a vehicular entrance being shared by 3 properties. SDCC Roads Department considers this an inappropriate combined vehicular entrance at a constrained site which would compromise the safety of pedestrian and drivers. This constitutes a traffic hazard”*.

Public Realm: Additional Information is sought. I note that this report raises concern that due to the site’s visually prominent location that it would have a negative visual impact upon the receiving landscape. They also raise concerns with this proposals lack of sustainable drainage measures.

Water: Additional Information is sought. This seeks sustainable urban drainage systems and soil percolation tests. It also sets out a number of safeguards.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** Additional Information sought. This report raises concern that no water supply drainage drawings have been provided.

3.4. Third Party Observations

3.4.1. 2 No. Third Party submissions were received during the course of the Planning Authority’s determination of this application. These raise residential amenity, visual amenity, civil matters, structural stability, lack of compliance with Development Plan standards through to traffic hazard concerns.

4.0 Planning History

Site:

ABP-300336-17 (P.A. Ref. No. SD17A/0320): On appeal to the Board planning permission was **granted** subject to conditions for a development consisting of a dwelling, vehicular entrance, car parking and associated works. Decision Date: 09/04/2018.

P.A. Reg. Ref. SD17A/0182: Permission **refused** in July 2017 for the construction of a two-storey detached dwelling by reason of its design, which compared to SD09A/0184 breaks the building line to the rear, has a taller ridge height and encroaches farther east and would result in significant overshadowing and would be unduly overbearing particularly when viewed from the dwellings to the east.

P.A. Reg. Ref. SD09A/0184: Permission **granted** in December 2009 for the construction of a two-storey terraced dwelling. This permission was not implemented.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site is located in an area that is zoned objective 'RES' under the provisions of the South Dublin County Development Plan, 2022-2028. The stated objective is: '*to protect and/or improve residential amenity*'.
- 5.1.2. Policy CS3 of the Development Plan seeks to promote and facilitate housing and population growth in accordance with the overarching Core Strategy to meet the needs of current and future citizens of South Dublin County.
- 5.1.3. CS6 Objective 4 of the Development Plan seeks to promote higher densities subject to meeting qualitative standards at appropriate locations, in urban built-up areas, and where it can be demonstrated that the necessary infrastructure is in place or can be provided. In addition Policy CS7 seeks to promote the consolidation and sustainable intensification of development within Dublin city and the suburbs settlement boundary.
- 5.1.4. CS6 Objective 6 of the Development Plan seeks to support through compact growth model in the Core Strategy and settlement strategy by ensuring population growth and plot densities are sustainable, the just transition to a climate resilient, biodiversity-rich environmentally sustainable and carbon neutral economy before 2050.
- 5.1.5. Section 2.7.1 of the Development Plan in relation to Dublin's city and suburbs within the plan area that it is targeted for more than 92% of south Dublin's population growth up to 2028.
- 5.1.6. Chapter 6 of the Development Plan deals with Housing.

- 5.1.7. Policy H7 of the Development Plan on the matter of design and layout seeks to promote high quality in new residential development to ensure a high-quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.
- 5.1.8. Section 6.7.6 of the Development Plan deals with steep or varying topography sites and requires that these respond appropriately to the natural topography of the site and improve upon and enhance natural characteristics.
- 5.1.9. Section 6.8 of the Development Plan deals with residential consolidation in urban areas, including infill, backland, subdivision, and corner sites. It sets out sensitive intensification will be important.
- 5.1.10. H13 Objective 5 of the Development Plan seeks to ensure that new developments in established areas do not unduly impact on the amenities or character of an area.
- 5.1.11. H13 Objective 6 of the Development Plan supports the subdivision of houses in suburban areas that are characterised by exceptionally large houses on relatively extensive sites subject to safeguards.
- 5.1.12. Section 12.6 of the Development Plan deals with Housing/Residential Development.
- 5.1.13. Section 12.6.7 of the Development Plan sets out the residential standards.
- 5.1.14. Section 12.6.8 of the Development Plan deals with residential consolidation and sets out criteria for side garden sites.
- 5.1.15. Section 12.7.4 and Table 12.26 set out the applicant parking for Zone 1 in which the site is situated (Note: 1.5 spaces for a 2 Bed House).
- 5.1.16. Section 12.11 of the Development Plan in conjunction with Chapter 4 and 11 deals with infrastructure and environmental services.

5.2. Regional

- 5.2.1. The **Eastern and Midland Regional and Spatial Economic Strategy**, which came into effect on June 28th, 2019, builds on the foundations of Government policy in Project Ireland 2040, which combines spatial planning with capital investment.

Chapter 4 (People & Place) sets out a settlement hierarchy for the Region and identifies the key locations for population and employment growth. It includes Dublin City at the top of the settlement hierarchy.

This strategic plan seeks to determine at a regional scale how best to achieve the shared goals set out in the National Strategic Outcomes of the NPF and sets out 16 Regional Strategic Outcomes (RSO's) which set the framework for city and county development plans including:

- RSO 2 Compact Growth and Urban Regeneration - Which seeks to promote the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens.

5.3. National

5.3.1. **National Planning Framework, 2040**, seeks to consolidate development and promote efficient use of land by utilising infill and brownfield sites. It contains policies that relate to the promotion of compact growth and making better use of under-utilised land, including 'infill' and 'brownfield' sites. Objective 3b seeks to deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway, and Waterford, within their existing built-up footprints.

5.3.2. Other:

- **Climate Action Plan, 2019.**
- **National Development Plan, 2021 to 2030.**
- **Housing for All – A New Housing Plan for Ireland to 2030, 2021.** Like other national policy provisions this targets settlement centre growth first and seeks regeneration of cities, towns, and villages.
- **Section 28 Ministerial Guidelines:** The following Section 28 Ministerial Guidelines are relevant:
 - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').
 - Urban Development and Building Heights – Guidelines for Planning Authorities 2018.
 - Quality Housing for Sustainable Communities, Best Practice Guidelines for Delivering Homes Sustaining Communities, 2007.

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within or close to any European site. The closest such sites are the Wicklow Mountains SPA (Site Code: 004040) which are located just over c4.4km to the south at its closest point as the bird would fly.

5.5. EIA Screening

- 5.5.1. The form of development proposed is not of a class for the purposes of EIA and no screening assessment is therefore required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:
- The provision of a house on this vacant site does represent a realistic proposal to improve residential amenity.
 - The existing houses at this location have been constructed on a sloping site and the slope is the reason for issues of overbearing that exist. This visual overbearance is not substantially changed by this proposal.
 - As part of this submission the roof area has been reconsidered with no balcony and no access to the roof structure.
 - The proposed building is designed to be substantially lower than the existing houses in this residential scheme.
 - The existing site is enclosed with a rendered blockwork wall and the new development although higher than that wall is substantially lower than the houses beyond it.
 - The access is considered to be reasonable to accommodate the proposed dwelling and No. 50A Springvale.
 - The drainage installation will accord with required standards and is a concern that could be dealt with by a condition as opposed to a reason for refusal.

- The date of the Planning Authority's decision is questioned.
- The proposed development represents proper planning and development of the area.
- The Board is sought to overturn the decision of the Planning Authority.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority in their response confirm their decision and consider that the issues raised in the appeal have been covered in their Planning Officer's report.

6.3. Observations

- 6.3.1. The observer's submission can be summarised as follows:

- The Board is requested to uphold the Planning Authority's decision.
- The Planning Authority's reasons for refusal reflect their concerns.
- Concern is raised that the revised drawings claim that the balcony has been removed. Yet these drawings still refer to its presence in the submitted drawings. Therefore, concern is raised that this balcony could be provided at construction phase if the proposed development were to be permitted.
- The access for which this dwelling would be accessed is in control of the applicant and the observer. It is requested that the proposed development not be permitted as it would result in inappropriate development accessed from a combined vehicle access to a constrained site and would constitute a traffic hazard.
- The easement for access allows vehicle access for No.s 50 and 50A Springvale. It was never intended to accommodate a third premises.
- The proposed additional dwelling using the access also would negatively impact on the saleability and value of the observer's property.
- Concern is raised that the appellant has not submitted any foul or surface water drainage drawings in response to the Planning Authority's third reason for refusal.

- The proposed dwelling would be on a small backland site and would give rise to traffic hazard, construction safety, soil impact stability issues, foul and surface water drainage concerns.
- The proposed development would give rise to serious impact on their residential amenities.

7.0 Assessment

7.1. Preliminary Comment

- 7.1.1. Having inspected the site and considered the contents of the appeal in detail, including all submissions received by the Board, including the observers submission which seeks that the Board uphold the decision of the Planning Authority in this case on the basis that the proposed development would give rise to undue residential and visual amenity impact, together with having had regard to local through to national planning provisions as well as guidance the main planning issues in the assessment of the appeal arise in my view from the three reasons for refusal of permission for the proposed development sought under this application.
- 7.1.2. These can be dealt with under the following broad headings:
- Principle of Development
 - Amenity Impact
 - Access
 - Servicing
 - Other Matters Arising
- 7.1.3. The matter of '*Appropriate Assessment*' also requires examination. I am satisfied and concur with the Planning Authority that no other substantive issues arise.
- 7.1.4. Prior to commencing my assessment, I note that this application is accompanied by revisions to the proposed dwelling house which seek to omit the proposed first floor balcony and some amendments to the overall built form of the dwelling house proposed.

- 7.1.5. I do not consider that these drawings sufficient for making an informed decision of the proposed development as for example they are not accompanied by any internal floor layouts, contextual drawings through to they do not clarify matters such as ground levels. There is also a substantive lack of water, foul drainage, surface water through to topographical details provided with the appellants submission with the lack of information being an issue for the Planning Authority in their determination of this application and forming part of the reasons to support refusal of the proposed development sought.
- 7.1.6. Therefore, my assessment below is based on the drawings and documentation submitted to the Planning Authority on the 4th day of April, 2022.
- 7.1.7. I also note that the Appellant in their grounds of appeal raise concern with regards to the Planning Authority's date of decision.
- 7.1.8. On this matter it would appear that the Appellant is referring to a date of a true certified copy of the Planning Authority's date of decision which are two separate dates on the Chief Executive's Order which clearly in my view sets out the actual decision date of this application as the 30th day of May, 2022.
- 7.1.9. I am not therefore satisfied that this matter as contended by the Appellant gives rise to the validation issue or procedural irregularity issue that would impact the Board determining this appeal case.
- 7.1.10. For clarity I also note that my assessment below in terms of local planning provisions is based on the South Dublin County Development Plan, 2022-2028.

7.2. Principle of the Proposed Development

- 7.2.1. By way of this application planning permission is sought for a two-storey detached dwelling house on the side garden of No. 50A Springvale together with its associated site works.
- 7.2.2. No. 50A Springvale is a detached dwelling that was permitted on the side garden area of No. 50 Springvale by the Board under appeal case ABP-300336-17.
- 7.2.3. The 0.0307ha site though forming part of the side garden area of No. 50A Springvale has been subdivided from this property to accommodate a lower level which is gravelled and contains a ship container with its storage use appearing to be non-residentially related. Notwithstanding, this together with the associated works thereon

given the lack of any planning permission for the same is an enforcement matter for the Planning Authority to deal with as they see fit.

- 7.2.4. The site is located within an area zoned 'RES' which seeks to protect and/or improve residential amenity under the South Dublin County Development Plan, 2022-2028.
- 7.2.5. In general, local planning policies and provisions in the said Development Plan support development of dwellings on corner/side gardens, subject to appropriate safeguards and standards, where appropriate conditions exist and where no adverse amenity impact arises to the area.
- 7.2.6. Moreover, local, regional, and national planning policy provisions as well as guidance seeks densification of serviced lanes at appropriate locations as part of achieving compact and sustainable development of Dublin city.
- 7.2.7. Based on the above considerations I am satisfied that the proposal is a type of residential development generally acceptable in principle on residentially zoned suburban lands, subject to safeguards.

7.3. Residential and Visual Amenity Impact

- 7.3.1. The first reason given by the Planning Authority in its notification to refuse planning permission for the proposed development relates to concerns that it would contravene the 'RES' zoning objective by virtue of the serious injury it would give rise to on the amenity of properties in its vicinity.
- 7.3.2. In this regard it was considered that the height and length of the eastern elevation of the proposed dwelling together with the balcony and ground level changes would give rise to diminishment of residential amenity by way of overbearance, overshadowing through to a loss of privacy.
- 7.3.3. It was further considered that the extent of level changes together with the proposed insertion of the built form proposed would also be damaging to the visual amenity of its setting.
- 7.3.4. For these reasons the Board in its first reason for refusal considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

- 7.3.5. As said previously the observer in this appeal support the Planning Authority's reasons for refusal and their submissions to the Planning Authority as well as the Board raise amenity impact on their established residential amenities as their primary concern.
- 7.3.6. The Appellant on the other hand contends that the proposed development would not be injurious to the residential and/or visual amenities of its setting due to such matters having been considered in the formulation of their design resolution. Alongside contends that it would be a type of development that accorded with 'RES' zoning of the site and its setting that seek to improve residential amenities.
- 7.3.7. In relation to amenity impact, I propose to first consider residential amenity impact on properties adjoining and in the vicinity of the proposed development. I consider that the proposed development having regard to the following factors: 1) nature, extent, massing of the proposed development; 2) its interrelationship and juxtaposition to these properties; 3) the established residential use of these through to the significant changes in ground level; as well as, 4) orientation of properties with the proposed dwelling forming part of a group that would essentially have a north south orientation and aspect, whereas the adjoining properties along the eastern boundary having an east west orientation and aspect has the potential to give rise to a change in context for these properties by way of overbearing, overshadowing and overlooking.
- 7.3.8. In relation to overbearing, I consider that the drawings submitted with this application and on appeal do not provide sufficient information in relation to the change of topography that occurs within the site and in terms of the site's context.
- 7.3.9. From inspecting the site and it's setting it is very evident that there are significant changes in ground level present.
- 7.3.10. With these changes in ground level not only reflecting the site's location in a river valley with a steep slope at this location.
- 7.3.11. But also, the level of actual excavation that has occurred on the site. Together with the ground levels of adjoining properties bounding it and the open space that bounds part of its southern and all of its northern boundary.
- 7.3.12. Furthermore, it does not clearly set out the changes in ground level associated with the proposed development itself, including that related to the access onto Springvale from the front elevation of the proposed dwelling.

- 7.3.13. What is clear in my view is that the proposed dwelling's mono-pitched roof is at its highest point adjoining the eastern boundary (Note: 6.835m). With the eastern elevation being constructed to what appears to be boundary wall with the roof structure oversailing it. It is unclear from the drawings whether or not the foundations of the proposed dwelling would similarly encroach onto this boundary but there appears to be a real potential that this would occur based on the building's footprint and overall built form as indicated.
- 7.3.14. There is no evidence to support that the Appellant has full legal interest over the eastern boundary wall.
- 7.3.15. Nor has the Appellant provided any evidence to support that if it is the case that they do not that they have the legal consent of adjoining property owners for any oversailing or encroachment onto property outside of their legal interest that they have obtained their legal agreement for the same.
- 7.3.16. This I note is a civil matter and therefore should the Board be minded to grant permission I advise that they include an advisory note reiterating Section 34(13) of the Planning and Development Act, 2000, as amended. This states that: '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.
- 7.3.17. The drawings suggest a steep fall from the eastern boundary and the adjoining properties, with No.s 2, 3 and 4 Springvale having rear garden spaces that from inspection of the site and setting appeared to be limited in their depth, immediately bounding the eastern boundary and eastern elevation of the proposed dwelling.
- 7.3.18. Given the significant change in ground levels the 6.385m maximum height of the proposed dwelling would be visually overbearing and visually oppressive when viewed from these particular properties.
- 7.3.19. But also, in the context of No.s 1 to 7 Springvale in a group whose rear elevations and rear private amenity space are situated on the opposite side of the eastern boundary wall.
- 7.3.20. I am of the view that the proposed dwelling would also give rise to visual overbearance that together with the glazing to the front and rear, particularly at first floor level, as

well as the rear first floor level balcony, would give rise to overlooking and the perception of being overlooked by these properties.

- 7.3.21. Whilst I acknowledge that overlooking is to be expected in the context of such suburban areas, it would appear that the original design and layout of the Springvale residential scheme sought to have regard to the landform which is undulating as well as in this vicinity steeply falling towards the Owendoher River. The design resolution of the Springvale residential scheme included a more generous lateral separation distance between No. 50 Springvale and No.s 1 to 7 Springvale. This separation distance together with the different orientation associated with these properties were in my view part of the measures in the design resolution to achieve an appropriate balance within the scheme in achieving qualitative residential amenities for future occupants.
- 7.3.22. In this context the placement of the proposed dwelling within the space between No. 50 and No.s 1 to 7 Springvale as well as the properties to the north of No. 7 together with the significant changes of ground level would give rise in my view to a diminishment of the residential amenities of properties by way of overlooking and greater perception of being overlooked than the existing context.
- 7.3.23. In terms of overshadowing, the drawings submitted with this application and on appeal to the Board do not support that the proposed dwelling would not give rise to any serious injury on the established residential amenity of properties in its vicinity by way of overshadowing. This together with the orientation of the site; the juxtaposition and interrelationship between the proposed dwelling and existing sensitive to change structures as well as spaces; having regard to the significant change in ground levels between the proposed dwelling and particularly the adjoining properties to the east alongside the overall built form of the proposed dwelling, I am of the view that the proposed development, if permitted, would give rise to serious injury to residential amenity of properties in the vicinity by way of overshadowing.
- 7.3.24. Having regard to the overbearing, overlooking and overshadowing impacts of the proposed development on properties sensitive to change in its immediate vicinity I am of the view to permit the proposed development would conflict with the residential zoning of the site and its setting which provides a measure of protection safeguarding residential amenities from inappropriate developments.

- 7.3.25. Further side garden dwellings are only considered permissible under the provisions of the Development Plan, in particular Section 12.6.8, where they no adverse impacts occur on residential amenity of adjoining properties through to where they promote a sense of integration with adjoining buildings. Neither is achieved in the design resolution put forward for the proposed dwelling sought under this application.
- 7.3.26. Of further concern, is the adequacy of the internal amenity of the proposed dwelling for future occupants based on the fact that the living room width and storage area do not comply with the minimum standards set out under the Quality for Sustainable Communities, Best Practice Guidelines for Delivering Homes Sustaining Communities, 2007, which requires for a 2 bed 4-person 2 storey house an obstructed width of 3.6m for living room and 4 m² for storage.
- 7.3.27. It is also a concern that the design as put forward could easily function as two independent one bedroom, 2 person, 2-storey units. Should the Board be minded to grant permission for the proposed development sought under this application I recommend that this concern is addressed by way of an appropriately worded condition in the interest of clarity and in the interest of residential amenity.
- 7.3.28. Based on the above considerations I consider that the proposed development, if permitted, would seriously injure residential and visual amenities of its setting in a manner that would not accord with the site's residential zoning objective as provided for under the Development Plan. I also do not consider that the proposed development accords with the criteria set out under Section 12.6.8 of the Development Plan which is applicable to the type of residential development of a side garden of an existing dwelling which is sought under this application. These are sufficient reasons in their own right to support the refusal of the proposed development and to conclude that the proposed development is not in accordance with the proper planning as well as sustainable development of the area.

7.4. **Access**

- 7.4.1. The second reason for refusal raises concern that the proposed development would intensify the use of an existing shared access, in turn increase the risk of a traffic accident and would endanger public safety by reason of a traffic hazard.

- 7.4.2. The appellants do not accept that this is a valid reason for refusal and consider that the existing access is suitable to serve No. 50A Springvale and the proposed dwelling sought.
- 7.4.3. The observer who appears to be owner and occupier of No. 50 Springvale indicate that there is a combined entrance that serves both properties and for which there is no consent for any other property to gain access as well as egress from.
- 7.4.4. The site occupies a corner location relative to the access road from which access and egress to the site is proposed. It is evident that the current configuration though demarcated with two different surface treatment is used as an entrance by No.s 50 and 50A Springvale. With the different treatments appearing to relate to the individual plots relating to these individual properties and further demarcated by the presence of railings between the setback areas to the front of No.s 50 and 50A Springvale.
- 7.4.5. The drawings submitted with this application appear to show that the roadside boundary relating to No. 50A Springvale would accommodate access to it and the proposed dwelling with this access not interfering with the access serving No. 50 Springvale. The width is given as 3.89m and the drawings appear to suggest that change in ground level in proximity but at just over a c11m setback of the existing entrance and in close proximity to the front of the proposed dwelling would be over 4m. The retaining wall separating the drive and the lower level to the front of the proposed dwelling appears to be already in place with the ground levels substantially excavated, lowered, and flattened in the area in which the proposed dwelling is proposed.
- 7.4.6. Whilst I raise concerns with this steeply sloping sight from residential and visual amenity impacts, including vehicles accessing into the site via the driveway would potentially give rise to further overlooking of properties to the west as well as in evening time, night time through to inclement weather conditions having the potential to give rise to visual intrusion from vehicle headlights. Together with the nature and significant ground level change of the driveway serving the site together with its associated boundary features being at odds with the pattern of development within this residential scheme.
- 7.4.7. I also raise concerns that the visibility from the existing entrance is restricted in a northerly direction. With the entrance serving vehicle access and egress under this

proposal for two separate dwelling units opening onto a point of the public domain where the pedestrian footpath finishes to the front of this entrance. With public open space adjoining this entrance to the north.

- 7.4.8. On the day of my site inspection, I observed a steady number of vehicles passing the site in both directions. With the estate of Springvale containing a significant number of dwelling units to the north and north west of it. These dwellings are predominantly 2-storey semi-detached typical suburban dwellings. As such the estate road serving the site given the number and type of dwellings it accommodates is not a quite or modest cul-de-sac at this point.
- 7.4.9. To the north and on the opposite side of the estate road the width of the pedestrian footpath is also modest in its width.
- 7.4.10. Further, it would appear that the existing parking generated by the occupation of No. 50A Springvale is above that normally to be expected for a side garden dwelling of the type permitted. And when taken together with this site historically forming part of No. 50 Springvale, alongside when the existing and proposed dwelling are considered in terms of parking requirements, I raise concern that any overspilling of car parking at this location where there are no on-street car parking spaces provided. Together with the quantum of car movements that would be generated at this point where sightlines are restricted and where the estate road is deficient in terms of its provisions for vulnerable road users in the vicinity of the entrance that would serve the proposed development onto the public road network.
- 7.4.11. Further I am not satisfied that the site and its immediate setting can safely absorb the additional traffic generated by the proposed development at this location when combined with No.s 50 and 50A Springvale.
- 7.4.12. Moreover, Section 12.7.6 of the Development Plan sets out that a width of 3.5m shall not normally be exceeded for a driveway in the reasons of pedestrian safety as well as visual amenities.
- 7.4.13. Based on the above considerations I concur with the Planning Authority's reasons for refusal in that the proposed development proposes an inappropriate and substandard entrance on a constrained site to serve the proposed dwelling that would compromise the safety of road users thereby constituting a traffic hazard. This is a substantive reason in its own right to warrant a refusal of permission and upon which to consider the

proposed development would be contrary to the proper planning as well as sustainable development of the area.

7.5. Servicing

- 7.5.1. The Planning Authority's third reason for refusal raises concern that the documentation provided with this application is insufficient in information on matters for foul and surface water drainage. They were not therefore satisfied that the proposed development, if permitted, would not be prejudicial to public health.
- 7.5.2. I also note that Irish Water also considered that additional information would be required in relation to the proposed water supply to the proposed dwelling. The appellant in their grounds of appeal to the Board consider that this is a matter that could be dealt with by way of a condition or conditions as deemed appropriate.
- 7.5.3. They also suggest that the proposed dwelling would be essentially connected to the existing water and foul drainage infrastructure serving No. 50A Springvale.
- 7.5.4. Alongside this I note that they provided no measures to improve surface water drainage or indeed clarify how surface water drainage would be dealt with in terms of the retaining walls and the like.
- 7.5.5. This lack of information is further added to by the lack of overall clarity on a number of important matters. Including but not limited to topographical levels, site percolation abilities, boundary treatments, foundations associated with the built structures and associated works, lack of factual contextual details for the proposed developments interrelationship with adjoining properties and the like.
- 7.5.6. Based on the above considerations I am not satisfied that the applicant by way of the information provided with this application and on appeal has demonstrated that the proposed development can be accommodated at this location without being prejudicial to public health. Nor have they demonstrated that the infrastructural services provided would accord with the required standards. I therefore consider that the Planning Authority's third reason for refusal is reasonable and appropriate given the substandard information provided with this application.

7.6. Other Matters Arising

- 7.7. **Depreciation of Property Values:** The observer in their submission to the Board raises concerns that the proposed development, if permitted, would result in the

depreciation of their property value. In relation to this concern, they have provided no evidence prepared by a suitable professional to support that this would be the case and the basis for which this devaluation can be directly attributed to the proposed development. In the absence of this information, I am not convinced that this concern can be supported as a basis to refuse the proposed development sought under this application.

7.7.1. **Structural Issues:** There is a lack of clarity provided in the documentation with this application and on appeal to the Board that would satisfy that the proposed development in terms of its design resolution, the methodology, building practices and the like, to be employed were the proposed development to be permitted has had sufficient regard to the significant change in ground levels and the potential for structural stability issues to arise for adjoining properties to the east and west of it. There is also a lack of clarity on the retaining features on site and their capabilities to safely as well as successfully absorb the proposed development into the future. Nor if it is the case, they cannot what measures are proposed to ensure structural integrity is maintained of the site and no adverse structural compromises arises to adjoining properties. I consider that such details should have been expertly clarified with the documentation accompanying this application given the topography of the site and its setting.

8.0 Recommendation

8.1. I recommend that permission is **refused**.

9.0 Reasons and Considerations

1. The site is zoned '*RES*' under the South Dublin County Development Plan, 2022 to 2028. The zoning objective for the site is to the site is "*to protect and/or improve residential amenity*". It is considered that the overall built form, the height, the interrelationship as well as juxtaposition relative to adjoining properties within Springvale residential scheme, the pattern of development together with the significant changes in ground level of the site and its setting, that the proposed development would result in significant overshadowing, overbearing and overlooking of the adjacent dwellings to the east and would seriously injure their

residential amenities in a manner that would fail to accord with 'RES' zoning objective of the site and to the criteria set out under Section 12.6.8 of the said Development Plan which requires residential development on side garden sites not give rise to adverse amenity impact on their setting or on the character of the area. Therefore, the proposed development would contravene the 'RES' objective, would seriously injure the amenity of property in the vicinity and would contravene the proper planning and sustainable development of the area.

2. It is considered that safe means of vehicular access has not been demonstrated and that the proposed dwelling which would be served by an existing combined entrance whose sightlines are deficit in a northerly direction, where the pedestrian footpath provision is substandard and terminates to the north of it, where the entrance is located at a corner of an estate road serving a significant number of dwelling units to the north as well as north west of it to where it terminates, and where, the additional traffic generated, has the potential to result in additional conflict with other road users. The proposed development would therefore increase the risk of a traffic accident, thereby endangering public safety by reason of traffic hazard.

3. The Board is not satisfied on the basis of the information submitted with this application and on appeal that the proposed development would not be prejudicial to public health.

Patricia-Marie Young
Planning Inspector

27th day of October, 2022.