



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315023-22

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<b>Development</b>	Outline Permission for construction of a house and all associated site works
<b>Location</b>	16 Fairways, Rathfarnham, Dublin 14, D14XR40
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD22A/0334
<b>Applicant(s)</b>	Raymond and Marie Leonard
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Greg and Susan Murphy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> February 2023
<b>Inspector</b>	Philip Maguire

## **1.0 Site Location and Description**

- 1.1. The appeal site is a corner site located at the junction of Fairways (L8170) and the main Fairways estate road in Rathfarnham, Dublin 14. The Rathfarnham Shopping Centre lies opposite the site to the west. The River Dodder flows in a north-easterly direction to the rear of the shopping centre. The surrounding area is predominantly residential. The streetscape in Fairways is characterised by semi-detached houses of similar form and appearance.
- 1.2. The appeal site is flat and has a stated area of 0.0378ha. It consists of the side garden of a semi-detached, two-storey house. There are some mature trees along the western and northern boundaries. The roadside boundaries are defined by a low wall and hedgerow. A footpath and grass margin wraps around these boundaries. There is a street tree, streetlight and stop sign in the grass margin along the estate road. The eastern boundary is defined by a high timber panel fence. The southern boundary is open to the adjoining house and undefined.

## **2.0 Proposed Development**

- 2.1. The proposal seeks outline permission for a two-storey house in the side-garden of the existing semi-detached house together with vehicular entrance to the side and pedestrian entrance to the front.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority granted permission on 11<sup>th</sup> October 2022 subject to 5 conditions.
- 3.1.2. The Board should note that Conditions 1 and 2 are the same. They restrict development until an application for Permission Consequent has been granted in respect of details relating to layout, siting, height, design, external appearance and means of access. Condition 2, therefore, is included in error.
- 3.1.3. Other conditions include:

- **Condition 3:** Permission Consequent application to include surface water drainage design. The design should have regard to the underlying ground conditions and BRE Digest 365 standards. Overflow connection to the surface water drainage network should also be included.
- **Condition 4:** Permission Consequent application to address vehicular access arrangements including the conflict with the street tree in grass margin.
- **Condition 5:** Permission Consequent application to include a Landscape Boundary Plan and Tree Management Plan. A Tree Bond is required in respect of the street tree in grass margin.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Planning Report (11/10/22): A Grant of Outline Permission was recommended subject to conditions as outlined above.

#### 3.2.2. Other Technical Reports

- Water Services (21/09/22): Further Information recommended in respect of surface water drainage. No objection in respect of flood risk.
- Parks (16/09/22): Refusal recommended – contrary to NCBH11 Objective 3 (removal of street tree).
- Roads (referred to in Planning Report): No objection subject to conditions.

### 3.3. Prescribed Bodies

- Irish Water (28/09/22): No objection subject to conditions.

### 3.4. Third Party Observations

3.4.1. A 3<sup>rd</sup> Party submission was received from Greg and Susan Murphy of 18 Fairways, Dublin 14. This is the adjacent house to the southeast.

3.4.2. The issues raised can be summarised as follows:

- Reference to two previous refusals on appeal site

- Impact on privacy
- Breaking of building line
- Overlooking of front garden
- Overshadowing of front of house
- Impact on views from house
- Traffic congestion

## 4.0 Planning History

### 4.1. Appeal site:

**S97A/0383:** Outline permission **refused** for a house in the side garden of 16 Fairways, Dublin 14.

**85B/0922:** Permission **granted** for bedroom extension to the rear of 16 Fairways, Dublin 14.

### 4.2. Sites in the vicinity:

**SD14A/0101:** Permission **granted** for a detached two-storey house in the side garden of 77 Fairways, Dublin 14.

**SD20A/0315:** Permission **refused** for a detached two and a half-storey house in the side garden of 2 Marian Road, Dublin 14. It was considered that the proposal would result in a significant and material loss of light, overshadowing, overlooking and unacceptable sense of enclosure and overbearing impact on the existing dwelling contrary to the zoning objective. Additionally, the Planning Authority was not satisfied, on the basis of the information submitted in relation to water, and surface and foul water drainage, that the proposal would not be prejudicial to public health.

### 4.3. Other relevant history in the area:

**SD19A/0038:** Permission **granted** for a detached two and a half-storey house in the side garden of 46 Cypress Grove Road, Dublin 6W.

**SD19A/0282:** Permission **granted** for a detached single-storey house in the side garden of 2 Cypress Lawn, Dublin 6W. Two-storey house previously refused by the Board under PL06S.246464 (PA ref. SD16A/0023).

**SD21A/0004:** Permission **granted** for a detached two-storey house in the side garden of 28 Cypress Grove Road, Dublin 6W.

## **5.0 Policy Context**

### **5.1. South Dublin County Development Plan 2022-2028**

5.1.1. The appeal site is zoned 'Existing Residential' (RES) with a zoning objective '*to protect and/or improve residential amenity*'. Residential uses are amongst the development types 'permitted in principle' in this zoning.

5.1.2. Relevant policies, objectives and standards are set out under Chapter 6 (Housing) and Chapter 12 (Implementation and Monitoring) of the Written Statement. The following sections are particularly relevant:

- Section 6.8.1 – Infill, Backland, Subdivision and Corner Sites
- Section 12.6.7 – Residential Standards for 3-bed house:
  - 92sq.m minimum floor space
  - 60sq.m minimum private open space
- Section 12.6.8 – Residential Consolidation:
  - Site should be of sufficient size to accommodate an additional dwelling(s) and an appropriate set back should be maintained from adjacent dwellings ensuring no adverse impacts occur on the residential amenity of adjoining dwellings;
  - Corner development should provide a dual frontage in order to avoid blank facades and maximise passive surveillance of the public domain;
  - The dwelling(s) should generally be designed and sited to match the front building line and respond to the roof profile of adjoining dwellings where possible. Proposals for buildings which project forward or behind the prevailing front building line, should incorporate transitional elements into the design to promote a sense of integration with adjoining buildings;

- The architectural language of the development (including boundary treatments) should generally respond to the character of adjacent dwellings and create a sense of harmony.

5.1.3. The following policy and objectives are directly relevant:

**Policy H13: Residential Consolidation**

Promote and support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.

**H13 Objective 3:** To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 12: *Implementation and Monitoring*.

**H13 Objective 5:** To ensure that new development in established areas does not unduly impact on the amenities or character of an area.

## 5.2. Natural Heritage Designations

5.2.1. None relevant.

## 5.3. EIA Screening

5.3.1. Having regard to the nature and small scale of the proposed development, which is for a single infill residential dwelling within a fully serviced urban area, and its proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A 3<sup>rd</sup> Party appeal has been lodged by Greg and Susan Murphy of the adjacent house to the southeast (18 Fairways). The main grounds of appeal can be summarised as follows:

- Negative impact on the building line to the east of the site
- Over-emphasis placed on building line opposite Tesco (Nos. 2-16 Fairways)
- Contrary to zoning objective 'to protect and/or improve residential amenity'
- Negative impact on residential and visual amenity in Fairways
- Scale and size of dwelling will detract from character of adjacent dwellings
- Proposal will result in overlooking and have an overbearing impact
- Negative impact on privacy

### **6.2. Applicant Response**

None.

### **6.3. Planning Authority Response**

6.3.1. The Planning Authority's response can be summarised as follows:

- Planning Authority confirms its decision.
- The issues raised are covered in the Planner's Report.

### **6.4. Observations**

None.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal submission, and inspected the site, and having regard to relevant local,

regional and national planning policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Zoning
- Residential Amenity
- Visual Amenity
- Appropriate Assessment

## **7.2. Zoning**

7.2.1. The appeal site is zoned 'Existing Residential' with a definitive zoning objective to protect and/or improve residential amenity. Residential uses are 'permitted in principle' within this zoning and therefore generally acceptable subject to other relevant policies, objectives and standards in the Development Plan. Policy H13 is a specific policy measure aimed at delivering compact growth through the support of residential consolidation at appropriate locations. This policy is underpinned by H13 Objective 3 which seeks to favourably consider proposals for the development of corner sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards.

7.2.2. The appellant suggests that the proposal is contrary to the zoning objective having regard to its impact on the flow of houses to the east of the site. The appellant is implying that the siting of the house forward of the building line along the Fairways estate road harms and/or diminishes residential amenity. It is arguable that this is equally a visually amenity issue. Notwithstanding, I am satisfied that the proposed development is located in an area zoned for residential uses. The principle is therefore acceptable, subject to further consideration of residential and visual amenity impacts.

## **7.3. Residential Amenity**

7.3.1. The appeal submission raises a number of issues in respect of residential amenity. These include specific concerns regarding overlooking and overbearing impacts in addition to concerns regarding the impact on the prevailing building line as noted above. These impacts can be difficult to quantify at Outline application stage in the absence of any floor plans or elevations, but I am satisfied that the layout drawing in conjunction with the stated floor area provides sufficient detail to make an assessment.



- 7.3.2. The appeal site is flat and has a stated area of 0.0378ha (378sq.m). The proposed dwelling has an indicative footprint of 6.55m by 8.35m (54.70sq.m) and is set-back 11m from the L8170 and some 9m from the Fairways estate road. It has a flank wall separation of 2.125m. In addition to the stated 83sq.m of private amenity space, the layout drawing illustrates a rear garden depth of 11.315m. The remaining private amenity space available to No. 16 Fairways is shown as 115sq.m. There is a separation distance of 12.30m between the proposed house and the appellant's house. The houses on the opposite side of the estate road are adequately separated from the proposed house and benefit from high hedging along the roadside boundary. On balance, I do not consider a house of similar height to the appellants house will result in overbearing that unduly impacts on the appellants residential amenity.
- 7.3.3. Whilst a two-storey house may result in some direct overlooking on the appellant's front garden, this is not considered as private amenity space and is not subject to the same safeguards and standards. There will be no overlooking on the appellant's rear garden. Indeed, I would have more concern regarding the possible overlooking of the proposed private amenity space from the appellants house where oblique views may be possible from the front upper floor windows. On balance, I do not consider a house of similar height to the appellants house will result in overlooking or loss of privacy that unduly impacts on the appellants residential amenity.
- 7.3.4. Section 12.6.8 of the Development Plan provides that dwellings should generally be sited to match the front building line and proposals which project forward or behind the prevailing front building line should incorporate transitional elements to promote a sense of integration with adjoining buildings. The proposed house is sited in accordance with the building line along the L8170 and addresses the Rathfarnham Shopping Centre to the west. There is however another building line along the Fairways estate road and the projection of the proposed house forward of this building line is of primary concern to the appellant. The appellant has suggested that an over-emphasis has been placed on maintaining the building line to the south of the appeal site at the expense of the building line along the Fairways estate road.
- 7.3.5. Firstly, it is important to state that the prevailing building line is indeed the building line along the L8170 having regard to the orientation of the proposed house and adjacent houses to the south. If the Planning Authority placed greater weight on preserving this building line when coming to their decision, then they correctly applied the relevant

criteria. Secondly, if the siting of the house forward of the other building line had the potential to give rise to issues of undue overlooking or overbearing this would be apparent from the separation distances and building orientation. This is not the case.

- 7.3.6. For these reasons and having specific regard to the site size and separation distances, I do not consider that a house of similar height to the adjacent houses will unduly impact on residential amenity, and I am satisfied that the proposal respects the zoning objective. I recommend that the height of the house be conditioned accordingly.

#### 7.4. Visual Amenity

- 7.4.1. The appeal submission raises a number of issues in respect of the proposals impact on visual amenity. These include specific concerns regarding the impact of the scale and size of dwelling on the character of adjacent dwellings and the negative impact on the building line along the Fairways estate road, as considered above.
- 7.4.2. Whilst I have determined that the siting of the house forward of the building line will not unreasonably impact on residential amenity, I do accept that it will give rise to some impacts on the visual amenity and character of the area. These impacts will be most pronounced when travelling in a westerly direction along the Fairways estate road, towards the L8170, and in southerly direction along the L8170, towards Butterfield Avenue. Such impacts are commonplace with new development in established residential areas and the where the *status quo* is being altered.
- 7.4.3. There are some mitigating factors however, namely the wider context provided by the Rathfarnham Shopping Centre when travelling in a westerly direction and the mature trees along the site boundaries which will serve to integrate the house at this prominent junction when travelling in a southerly direction. I recommend that these trees should be retained with adequate protection during the construction phase in the event of a grant of permission. The house will have no discernible visual impact when travelling in a northerly direction and will readily assimilate into the streetscape along the L8170.
- 7.4.4. I note that the proposed vehicular access will require the removal of a street tree in the grass margin and a mature cherry blossom tree to the northeast corner of the site. The Board should note that the street tree lies outside the application site boundary and its removal would be outside the terms of a planning consent, but it is assessed here for completeness. The loss of these trees, and particularly the cherry blossom

tree, is undesirable but reasonable given the optimal location of the vehicular access at the furthest point possible away from the L8170/estate road junction.

- 7.4.5. The Planning Authority has conditioned the relocation of the access in the interests of preserving the existing street tree. It appears to have attached significant weight to the Parks Report which contends that the removal of the street tree is contrary to NCBH11 Objective 3. This objective seeks to *inter alia* protect and retain existing trees which are of amenity value or contribute to landscape character etc. and ensure that provision is made for their protection and management.
- 7.4.6. There are additional street trees along the Fairways estate road and whilst some of these trees are more mature than the subject tree, I note that their growth is generally curtailed by the narrow grass margin on which they are located. It is questionable whether the subject tree, like these older trees, will ever reach full maturity. In such circumstances, I am not convinced that this street tree has any amenity or other value warranting its retention in accordance with NCBH11 Objective 3. The relocation of the vehicular access closer to the estate road junction does not appear to be a reasonable trade-off in this regard and could endanger public safety by reason of traffic hazard.
- 7.4.7. In conclusion, I do not consider the proposed development will unduly impact on visual amenity or character and it is therefore consistent with H13 Objective 5. The final design including material finishes will be a matter for the Planning Authority at Permission Consequent stage. I recommend that the broad parameters of the design be conditioned however including the requirement for a dual-fronted building with appropriate boundary treatment.

## 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, which is for a single infill dwelling in an established urban and serviced area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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

8.1. I recommend that Outline planning permission be granted for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

9.1. Having regard to the provisions of South Dublin County Development Plan 2022-2028, the location of the development on zoned and serviced lands within the Dublin City and Suburbs settlement boundary, the small scale and infill nature of the proposed development site and the prevailing pattern and character of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would, subject to detailed design, not seriously injure the visual or residential amenities of the area, or of property in the vicinity, and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>This grant of outline permission relates solely to the principle of a house on this site as indicated in the plans and particulars lodged with the application on the 17<sup>th</sup> day of August 2022. Permission consequent on this grant of outline permission shall be obtained from the planning authority before any development is commenced.</p> <p><b>Reason:</b> In the interests of clarity.</p>
2.	<p>Plans and particulars to be lodged for permission consequent on this grant of outline permission shall include:</p> <ul style="list-style-type: none"><li data-bbox="363 1727 1391 1877">(a) Proposals to protect the privacy and amenity of existing adjacent properties. The height of the house shall not exceed that of the adjoining houses to the south and southeast.</li><li data-bbox="363 1910 1391 2009">(b) Design proposals which have regard to the design and character of the built environment in the vicinity. The house shall be dual fronted</li></ul>

	<p>and address the front and side gardens as illustrated on the layout plan drawing lodged with the application.</p> <p>(c) Proposals for the retention/reinforcement of existing boundary treatment. The private amenity space shall be bounded by block walls, at least 1.8 metres in height, suitably capped, and finished in a material that matches the external finish of the house.</p> <p>(d) Measures to ensure the protection of existing trees during the construction phase. Existing trees shall be preserved except where required to be removed to accommodate the vehicular access.</p> <p><b>Reason:</b> In the interests of clarity and to define the subject matter for consideration at permission consequent stage.</p>
3.	<p>Details for the disposal of surface water from the site shall be submitted for permission consequent on this grant of outline permission. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> To prevent flooding and in the interests of sustainable drainage.</p>
4.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of development authorised by permission consequent to this grant of outline permission.</p> <p><b>Reason:</b> In the interests of public health and to ensure adequate water/wastewater facilities.</p>
5.	<p>Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>A financial contribution shall be paid by the developer to the planning authority towards the cost of the provision of public infrastructure and</p>

	<p>facilities benefiting the proposed development. The amount of the financial contribution, and the terms of payment, shall be determined at permission stage consequent to this grant of outline permission and shall be in accordance with the terms of the Development Contribution Scheme, in operation at the date of the grant of permission consequent, made under Section 48 of the Planning and Development Act 2000, as amended.</p> <p><b>Reason:</b> In order to comply with the Development Contribution Scheme made in accordance with Section 48 of the Planning and Development Act 2000, as amended.</p>
7.	<p>In accordance with the provisions of section 96 of the Planning and Development Act, 2000, as amended, the applicant, or any other person with an interest in the land to which the application relates, as may be specified by the planning authority, shall enter into an agreement with the planning authority in relation to the provision of social and affordable housing, in accordance with the requirements of the planning authority's housing strategy, unless they shall have applied for and been granted an Exemption Certificate under section 97 of the Planning and Development Act, 2000, as amended. The agreement shall apply to any grant of permission consequent on the instant grant of outline permission and all relevant provisions of section 96, including section 96(8), shall have effect.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Philip Maguire  
Planning Inspector  
22<sup>nd</sup> March 2023