



An
Bord
Pleanála

Inspector's Report ABP-315996-23

Development	Demolition of existing structures and construction of 3 houses.
Location	Townland of Perrystown, (laneway of, Muckross Avenue), Perrystown, Dublin 12
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD22A/0455
Applicant(s)	Kristian Hogan, Ciara, Jarlath and Kevin Dolan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Kristian Hogan, Ciara, Jarlath and Kevin Dolan
Observer(s)	T and F Doyle Connie Nolan
Date of Site Inspection	15/06/2023

Inspector

Lorraine Dockery

1.0 Site Location and Description

- 1.1. The subject site, which is triangular in shape and has a stated area of 841 square metres, is located in the established residential area of Perrystown between Muckross Avenue and Rockfield Avenue, Dublin 12. It is accessed from a laneway off Muckross Avenue, which serves a large number of garages/rear garden areas.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of existing structures on site and the construction of three detached houses and associated site development works. These site development works include for the widening of the existing vehicular entrance and new gate.
- 2.2. Each proposed dwelling has an approximate floor area of 126m².

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for two reasons, as follows:

1. The generation of additional traffic both vehicular and pedestrian by the proposed development on the narrow unlit laneway, the lack of facilities or capacity to provide facilities for the cyclist/pedestrian traffic generated by the development and the lack of visibility due to high walls and the narrowness of the laneway combine to endanger public safety by reason of a traffic hazard.
2. Insufficient information has been submitted in relation to impact of the proposed development on existing residential amenity. The proposed two storey houses would be approx. 5.3m to 9.1m from the rear boundary of residential properties on Rockfield Avenue. Further information including contiguous and sectional drawings and a revised site layout plan is required to fully assess the potential impact of the proposed houses on the properties to the rear of the site. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- Reflects decision of planning authority; recommends a refusal of permission

3.2.2. Other Technical Reports

Roads Department- Refusal recommended (as per Reason No. 1 of decision of planning authority)

Water Services Planning- Additional Information required in relation to surface water; no objections, subject to conditions in relation to flood risk

Public Realm Section- Additional Information requested

Environmental Health- Acceptable, subject to conditions

4.0 **Prescribed Bodies**

Uisce Eireann- No objections, subject to conditions

5.0 **Planning History**

The most recent, relevant history is as follows:

SD19A/0403 (ABP-306964-20)

Permission GRANTED on appeal for the demolition of structures and construction of a house, garage and all associated site works.

SD16A/0415

Permission GRANTED for change of use of existing yard from a builder's providers yard to a car park for storage of mini vans used as school buses.

Condition 2 states- 'No more than 16 mini vans used as school buses shall be stored on the site. The use shall only be for parking of buses and shall not include servicing of any vehicles.'

SD14A/0126

Permission REFUSED for four dwelling units and connection to public services.

6.0 Policy and Context

6.1. Development Plan

The South County Development Plan 2022-2028 is the operative County Development Plan.

Zoning: 'Objective RES' which seeks 'To protect and/or improve residential amenity'

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

12.6.8 Residential Consolidation

Infill Sites and Backland Sites

6.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

6.3. EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from 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.

7.0 The Appeal

7.1. Grounds of Appeal

The main points of the first party appeal are:

Reason No. 1

- Existing laneway serves a number of houses/garages demonstrating a level of vehicular/pedestrian use already exists
- Will not result in new vehicular access point; existing access will be made substantially wider and will improve current traffic flow
- Proposal for 3 no. two-bed properties; existing permitted use for parking and storage of 16 minibuses- traffic generated by proposal minimal in comparison to that currently generated by commercial activity on site; proposal will result in reduction in use of laneway
- References DMURS and use of shared surfaces
- Length and width of laneway ensures speeds will not be high and there is good visibility along its length
- Will provide for passive security; will improve safety for other road users due to substantial reduction in traffic movements, especially large vehicles

Reason No. 2

- Careful design to ensure no undue impact on neighbouring properties
- Adequate separation distances (5.3m-9.1m from rear boundaries of properties on Rockfield Avenue); height and design such that there will be no overlooking of these properties
- Additional drawings submitted with appeal submission; includes for window in bathroom as referenced in PA report
- Designed to avoid being visually obtrusive, no loss of amenity to existing neighbouring properties by way of overlooking or overshadowing; will result in significant upgrading of existing site conditions; will be visually appealing in the residential context and provide passive surveillance

- In compliance with local and national policy
- Cites examples of other infill development as precedent
- Addresses other matters raised in Planner's Report

7.2. **Planning Authority Response**

A response was received from the planning authority which states that they confirm their decision and issues raised in the appeal have been covered in Planner's Report

7.3. **Observations**

Two observations were received, which may be broadly summarised as follows:

Amenity- no outside views; built within a compound surrounded by high walls; no road frontage; substandard form of development; design of proposed dwelling; residents have no issue with existing commercial depot on the site. Concerns regarding impacts on existing amenity including overlooking, overshadowing, impacts on privacy; construction impacts

Traffic Concerns- narrow, unlit laneway that can only accommodate one-way traffic; often have to reverse onto busy road; emergency vehicle access; pedestrian safety and lack of footpath; visitor parking; not considered a shared space in accordance with DMURS; existing commercial traffic movements are limited to certain times/periods during year

Other Matters- inadequate lighting; safety and security; will not provide passive surveillance due to high walls; drainage concerns including flooding; speculative development; damage to property

7.4. **Further Responses**

None

8.0 **Assessment**

8.1 I highlight to the Board the planning history associated with this site. Permission was previously granted by the planning authority (under Reg. Ref. SD16A/0415) for

change of use of the existing yard from a builder's providers yard to a car park for storage of a maximum of 16 mini vans, being used as school buses. In 2020, An Bord Pleanála overturned a decision of the planning authority to refuse permission for the construction of one house on this site. This permitted development was not constructed. This current proposal is for three no. dwellings and associated site development works.

8.2 I have read all the documentation attached to this file including inter alia, the appeal, the report of the Planning Authority, the observations received, and further responses received, in addition to having visited the site. The primary issues, as I consider them, are (i) traffic and transport matters (ii) impact on residential amenities arising from the proposed development and (iii) other matters.

8.3 The site is zoned 'Objective RES' which seeks 'To protect and/or improve residential amenity'. I consider the proposed development to be in accordance with the zoning objective for the site. The operative County Development Plan sets a generally favourable policy towards infill and backland development, subject to compliance with normal planning criteria (12.6.8 Residential Consolidation). I consider the proposal to be substantially in compliance with the operative County Development Plan. The proposal is also considered to be in accordance with national policy with regards the densification of appropriate urban infill sites.

Traffic and Transport Matters

8.4 The first reason for refusal which issued from the planning authority stated that the generation of additional traffic both vehicular and pedestrian by the proposed development on the narrow unlit laneway, the lack of facilities or capacity to provide facilities for the cyclist/pedestrian traffic generated by the development and the lack of visibility due to high walls and the narrowness of the laneway combine to endanger public safety by reason of a traffic hazard. In addition, I note the concerns raised in the observations received with regards to this matter including the width of laneway, its capacity to accommodate traffic and existing traffic movements generated by the existing use. The observers state that they are happy with the existing commercial enterprise on the site. The first party appellants refute these points and state that the existing laneway serves a number of houses/garages demonstrating a level of vehicular/pedestrian use already exists. The proposal will

not result in new vehicular access point being created, instead the existing access will be made substantially wider and will improve current traffic flow. They further highlight that this proposal is for 3 no. two-bed properties and given that the existing permitted use is for the parking and storage of 16 minibuses, traffic generated by proposal would be minimal in comparison to that currently generated by commercial activity on site.

- 8.5 I note the length and width of laneway and concur with the first party that its length and width is such that I would not anticipate speeds to be high. In addition, there is good visibility along its length, given its somewhat limited extent. I highlight to the Board its previous decision in ABP-306964-20, which stated that the proposed residential use was a more appropriate use of the site within a residentially zoned area than its commercial use. I would concur with this opinion. It further stated that the proposed development utilises the existing access lane that is currently used by larger mini-bus vans and also by van drivers either walking or driving along the lane and it was considered that the proposed development of a single residential dwelling with two parking spaces would significantly reduce pedestrian and vehicular activity along the lane and would therefore be acceptable in terms of traffic and pedestrian safety. I would also concur with this opinion. I again highlight that the previous appeal was for one dwelling with two no. parking spaces. This current proposal, whilst for three no. dwellings, proposes a total of three car parking spaces (an increase of one space over that previously permitted). The Roads Section of the planning authority were satisfied with the one space per dwelling, given the size and location of the dwelling.
- 8.6 Given the limited scale of the proposed development (three dwellings), I would not anticipate it to lead to the generation of significant volumes of traffic, especially when compared with the previously permitted commercial use of the site for the storage of up to 16 mini-buses. While I note the case put forward by the observers that the commercial activity was confined to certain hours/periods of time, I consider that the removal of such heavy vehicles from the laneway would be a positive for the area, given the residentially zoned nature of the area. The proposal would likely result in a reduction of traffic movements from that generated by the commercial activity on site. In-curtilage parking is proposed and the submitted drawings demonstrate there is adequate space to undertake turning manoeuvres within the site curtilage. I note

that the Transportation Division of the planning authority have no objections to the proposed parking provision. In terms of provision of footpaths/shared surface nature of the proposal, I note that the Board accepted this arrangement in its previous decision on the site. I also note that this is the arrangement currently in place for the commercial enterprise on site. I consider that pedestrian movements would likely be less than when the site was used for commercial activity and would also be safer, given the removal of significant volumes of heavy vehicles from the laneway.

- 8.7 I consider that additional traffic generated by the proposal over and above that previously permitted (both commercial and residential permissions) would not be so great as to warrant an alteration to the design proposal in this instance. Speeds are low on the laneway, it is not heavily trafficked (especially once the commercial use is removed) and I consider that any concerns in this regard would not be so great as to warrant a refusal of permission. I note that there is ample on-street parking on nearby roads and that most properties in the vicinity have in-curtilage parking.
- 8.8 In terms of concerns raised in the observations received regarding access for emergency vehicles, I note that the laneway is currently used by heavy vehicles, apparently without issue. In terms of fire access, the appellants state that a fire hydrant will be included in the proposed scheme as part of the mains water upgrade, which would limit the number of fire tenders required to use the lane in the event of a fire and would benefit all properties along its length. I am satisfied in this regard.
- 8.9 In terms of impacts of construction traffic and possible disruption during the course of the works, I note that construction works would be relatively short-lived. In this regard however, I recommend that the applicants be requested to submit a Construction Management Plan, prior to the commencement of any works on site, which would deal with matters including construction traffic, construction practices, noise, hours of operation. I recommend that this matter be dealt with by means of condition, if the Board is disposed towards a grant of permission.
- 8.10 I am generally satisfied in this regard and consider the proposal to be acceptable in terms of pedestrian and traffic safety. I have no information before me to believe the proposal would lead to the creation of a traffic hazard or obstruction of road users. I do not recommend a refusal of permission in this regard.

Residential Amenity

- 8.11 The second reason for refusal which issued from the planning authority stated that insufficient information was submitted in relation to impact of the proposed development on existing residential amenity, including contiguous and sectional drawings and a revised site layout plan is required to fully assess the potential impact of the proposed houses on the properties to the rear of the site. This has been raised as a concern in the observations received including concerns regarding overlooking, overshadowing and impacts on privacy. The first party appellants submitted revised drawings as part of their appeal submission, which include for site sections. I am satisfied that there is adequate information on file for me to comprehensively assess the proposal before me. I have also undertaken a visit of the site environs.
- 8.12 In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. Having examined the proposal, I am of the opinion that any impacts on residential amenity are in line with what might be expected in an area such as this. I note that the Board did not raise concern in relation to this matter in the previous appeal on this site. I note that while these are two-storey dwellings, as stated in planning authority refusal, I highlight to the Board that there are no windows at first floor level in the rear elevation, instead velux rooflights are proposed. This is considered to be a compensatory measure to prevent any excessive overlooking of properties to the rear. In terms of impacts of overlooking/overshadowing or impacts on privacy on dwellings fronting onto Muckross Avenue/Grove, I note the separation distances involved, the fact that the site is separated from these properties by the laneway and that there are garages/high walls in many instances. In terms of properties to the rear (fronting onto Rockfield Avenue), I note the separation distances involved- approximately 30 metres from opposing rear elevations at first floor level. I am satisfied in this regard.
- 8.13 Given the height and design of the proposed dwellings, I am of the opinion that the proposed houses would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. There is an acknowledged housing crisis and this is a serviceable site, in an established residential area with adequate services, facilities and employment in close proximity. Given the urban location of the site, a certain level of

overlooking/overshadowing is to be anticipated. Impacts on privacy would not be so great as to warrant a refusal of permission. I have no information before me to believe the proposal would result in the setting of precedent for similar type developments. In any event, each application is assessed on its own merits.

Other Matters

- 8.14 I note the concerns raised in the observations received in terms of impact on the visual amenity of the area. I am generally satisfied with the design approach put forward in this instance. I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the amenities of the area. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the local planning policy in this regard.
- 8.15 In terms of residential amenity for future occupiers, I am generally satisfied in this regard. I do not consider the proposal to represent a substandard form of development. Adequate private open space is proposed to comply with Development Plan standards. I consider that it will improve the visual amenity of the laneway from that currently existing. The proposed layout is considered a good design response to the site parameters and would offer a good quality of residential amenity to any future occupiers. The first party appellants state that they are willing to provide a window, comprised of obscure glazing to the bathroom, as this was raised as a concerns of the planning authority. This is welcomed.
- 8.16 I note the concerns raised by the observers in relation to drainage matters, including flooding. I note that the Water Services section of the planning authority had no concerns in relation to flood risk but did request further information in relation to surface water matters. The first party appellants have submitted further details in this regard, as part of their appeal submission. I note that the Board did not raise concerns in relation to this matter in the previous appeal on the site. The proposed development will connect into existing mains services in the vicinity. Irish Water have no objections to the proposal, subject to conditions. I am of the opinion that

any outstanding drainage matters could be adequately dealt with by means of condition, if the Board is disposed towards a grant of permission.

Conclusion

- 8.17 Having regard to the limited extent, height and design solution put forward, I am satisfied that the proposed development is in accordance with the zoning objective of the site, is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area. I consider the proposal to be in accordance with Development Plan policy in relation to residential consolidation, in particular infill and backland development and also to be in accordance with national policy for the densification of appropriate infill sites. I am satisfied in this regard.

9 Appropriate Assessment Screening

- 9.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

10 Recommendation

- 10.1 I recommend permission be GRANTED subject to conditions.

11 Reasons and Considerations

Having regard to the zoning objective of the site, which seeks “to protect and/or improve residential amenity” as set out in the South Dublin County Council County Development Plan 2022-2028; to its planning history including the previously permitted use of the site for the storage of mini-vans; and to the limited scale of the proposal on a unique triangular-shaped site to the rear of residential properties, it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with the zoning objective for the

site, would be acceptable in terms of pedestrian and traffic safety, would not seriously injure the residential amenities of existing properties and would provide a satisfactory level of residential amenity for future occupants. It is considered that the proposed development would be in accordance with the proper planning and sustainable development of the area.

12 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars received by An Bord Pleanála on the 08th March 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>

4.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interests of visual and residential amenity.</p>
5.	<p>Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
6.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p>Reason: In the interests of public health</p>
7.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including management of construction traffic, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the</p>

<p>planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</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.

Lorraine Dockery
Senior Planning Inspector

18th June 2023