



An
Bord
Pleanála

Inspector's Report ABP318162-23

Development

Demolition of extension and construction of dwelling and associated site works.

Location

45 Pairc Mhuire, Saggart, Dublin 24.

Planning Authority

South Dublin County Council.

Planning Authority Reg. Ref.

SD23A/0161.

Applicant

Gareth Duffy.

Type of Application

Permission

Planning Authority Decision

Refusal of permission.

Type of Appeal

First Party

Appellant

Gareth Duffy.

Observer

David Murphy.

Date of Site Inspection

14th December 2023.

Inspector

Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located in an established residential estate in the village of Saggart in the southwest of County Dublin. The appeal site is a partially corner site which is roughly triangular in configuration with a stated area of 0.015 hectares and forms parts of the side garden of 45 Pairc Mhuire which is a two storied semi-detached dwelling.
- 1.2. To the east around the corner from the appeal site there is a two storied dwelling 44A Pairc Mhuire which would appear to be a subdivision of the original site 44 Pairc Mhuire.

2.0 Proposed Development

- 2.1. The proposal in effect provides for the subdivision of 45 Pairc Mhuire to provide for an additional dwelling in the site of 45 Pairc Mhuire. In relation to the existing dwelling, it is proposed to demolish an existing extension to the rear and to provide for a new entrance and porch to front of the existing dwelling. The proposal is also to provide for the construction of one two storey, two bedroom semi-detached townhouse with solar panels 3m x 2m to front elevation with a private entrance adjoining the existing property. The stated floor area of the proposed development is 73.5 m².
- 2.2. The proposed new dwelling is of a similar design, height and finish to the existing dwelling on the site retaining the existing building line at the front and rear. An off street car parking space is proposed. Private open space is proposed at the side and rear of the dwelling with an existing 1800mm wall screening off the private open space area.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to refuse planning permission and one reason was stated which refers to;

In the South Dublin County Development Plan 2016 - 2022 the site is zoned 'RES' land-use zoning objective 'To protect and/or improve residential amenity'.

Having regard to: - Inadequate space to park a car to the front of the existing and proposed dwelling, an unacceptable overlooking and overbearing impact on the adjoining residential property located to the east of the subject site. The proposed development as currently proposed would seriously injure the amenities of property in the vicinity and would not be consistent with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report refers to the submissions received. The provisions of the County Development Plan (CDP) are outlined and the provisions as they relate to housing developments in particular corner sites and sub divisions of sites.

Reference is made to the recent planning history and that the key elements of the reasons for refusal for the previous applications were substandard private amenity space for the existing and proposed dwellings; insufficient internal accommodation for the proposed dwelling and overlooking and overbearing impacts on the adjoining residential properties located to the north and east of the subject site.

Reference is also made to the CDP requiring private amenity space of 55m² for 2-bedroom dwellings and that the areas of the private open spaces for the existing and proposed dwellings have not been specified in the application; that private open space should be located behind the front building line of the house and be designed to provide for adequate private amenity. The private open space for the proposed dwelling located to the rear of the dwelling would be significantly under 55m² and the open space located to the side would be relied on to contribute to this. Additional information should be requested, however, because a refusal is recommended in relation to inadequate onsite parking and impact on residential amenity, additional information is not appropriate.

The issue of overlooking and overbearing impacts on the adjoining residential properties located to the north and east of the subject site is assessed and although it is indicated that there are design solutions that could address these impacts, it

could result in a reduction in the size of the proposed dwelling to under the minimum floorspace requirement of 70m² under the Quality Housing for Sustainable Communities Guidelines (2007) and this suggests the proposed overdevelopment of the site. Permission should therefore be refused.

It is indicated, that it has not been sufficiently demonstrated that there is space to park a car to the front of the dwelling, that there is adequate private open space, and that the proposal would not have an undue impact on residential amenity. This suggests that the site might not be of a sufficient size and shape to accommodate a two bedroom dwelling house. Revisions to accommodate this would result in reduction of the size of the proposed dwelling and the Planning Authority would be concerned with relocating this floorspace to the side or rear of the proposed dwelling, given that this would impact already undersized private open space. This suggests overdevelopment of the site and permission should be refused and refusal of permission is recommended.

- 3.2.2. The roads report dated the 3rd August 2023 indicates that the proposed entrance is 3.2m wide which is acceptable (Max width 3.5m). 900mm block plastered wall is also acceptable and allows for visibility for cars approaching from both sides. The proposed new entrance would reduce the on-street parking available directly across from the entrance (Note 2 cars parked there in aerial photo). The proposed porch reduces the car parking area to the front of the property and leaves a clearance of only 4.507m (much less than the minimum requirement of 6m) and refusal is recommended. Conditions in the event of a permission being granted are outlined.
- 3.2.3. The water services report dated the 11th August 2023 recommends further information be submitted.

3.3. **Other submissions.**

Uisce Eireann in a submission indicates no objections to the development.

4.0 **Planning History**

4.1. Appeal site

Ref. No. SD23A/0085.

Permission refused on the appeal site for demolishing of extension to rear and provision of new entrance and porch to front. Construction of one, two storey, two bedroom semi-detached townhouse with solar panels 3m x 2m to front elevation with private entrance adjoining existing property. Two reasons were stated;

1. The applicant has stated on the public notices that the proposal would provide a two storey, two bedroom dwelling. An assessment of the proposal against the relevant standards of the South Dublin County Development Plan 2022 – 2028 and the Quality Housing for Sustainable Communities Guidelines 2007, demonstrates that the dwelling, as proposed, does not meet the relevant internal accommodation standards. The house would provide 67.6 sq.m internal accommodation, which is below the requirements of both the Development Plan (2 bed, 2 storey, 4 person dwelling - 80 sq.m) and the housing guidelines (2 bed, 2 storey, 3 person dwelling - 70 sq.m). In addition, the main bedroom floor area would be below the required minimum (13 sq.m) of the guidelines, while the second bedroom does not provide the minimum floor area or required width to be considered as a single (7.1 sq.m) or double bedroom (11.4 sq.m). No dedicated storage is shown on the supporting floor plans, save for wardrobe space which does not count towards the storage recommendations of the Guidelines. Furthermore, the living room does not provide the minimum recommended width of 3.6 m (2.5m is proposed) for a 2 bedroom house. Having regard to the foregoing, the proposed dwelling would provide sub-standard accommodation and would not be in the interest of the proper planning and sustainable development of the area.

2. In the South Dublin County Development Plan 2022 - 2028 the site is zoned 'RES' land-use zoning objective, which aims; 'To protect and/or improve residential amenity'. After assessing the current proposal, it is considered that it does not comply with the overarching zoning objective in which the site pertains to, therefore the proposed development would contravene the current development plan and seriously injure the amenities of property in the vicinity and would not be consistent with the proper planning and sustainable development of the area.

Ref. No SD22A/0121

Permission refused to move entrance & demolish existing extension to rear; construction of 1 no. two storey, three bedroom dwelling to adjoin existing property.

Permission refused with the stated reason *In the South Dublin County Development Plan 2016 - 2022 the site is zoned 'RES' land-use zoning objective 'To protect and/or improve residential amenity'. Having regard to: - Substandard private amenity space - Overbearing and overlooking on dwelling to west - Overbearing on dwelling to the north the proposed development would contravene the Plan and seriously injure the amenities of property in the vicinity and would not be consistent with the proper planning and sustainable development of the area.*

4.2. Adjacent area

SD07A/0109 44, Pairc Mhuire, Saggart, Co Dublin

Permission granted for the construction of a single storey porch to the front of existing house, construction of a new two bedroom, end of terrace, two storey house with porch in the side garden of the existing house and the construction of a new vehicular entrance to the proposed dwelling.

SD20A/0072 28, Pairc Mhuire, Saggart, Co Dublin

Permission refused for the construction of a detached pitched roofed two storey dwelling house with a single storey pitched roofed entrance porch to the front on part of the front, side and rear garden including the demolition of existing detached storage out-buildings and changes to boundary treatments affecting the existing, including proposed new pedestrian and vehicular entrances to service the proposed dwelling and a new vehicular entrance to replace the existing to service the existing dwelling.

5.0 Policy and Context

5.1. Development Plan

The relevant statutory development plan is the South Dublin County Development Plan 2022-2028.

The site is located within the zoning 'RES': 'To protect and / or improve residential amenity'.

Section 6.7.3 refers to Private and Semi-Private Open Space and that the provision of adequate and well-designed private and semi-private open space is crucial in meeting the amenity needs of residents.

Section refers to 6.8 Residential Consolidation in Urban Areas and section 6.8.1 to Infill, Backland, Subdivision and Corner Sites. It is indicated that in established residential areas sustainable intensification can be achieved through infill development, the subdivision of larger houses, backland development and the development of large corner sites. Implementation and monitoring of is framed by a number of policies and objectives including;

Policy H9 in relation to Private and Semi-Private Open Space Policy is to ensure that all dwellings have access to high quality private open space and semi-private open space (where appropriate) and that such space is carefully integrated into the design of new residential developments.

H11 Objective 3 indicates to ensure that private open spaces, where it consists of gardens, are enclosed within perimeter blocks behind the building line and that they are subdivided by suitably robust boundary treatments of a sufficient height and composition to provide adequate privacy and security. In limited circumstances, some discretion may be provided for where the configuration of the space can provide for private and secure space, to a high quality, elsewhere on the site than behind the building line.

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 2: To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 12: Implementation and Monitoring.

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.

Section 12.6.7 refers to Residential Standards and that all houses must comply with or exceed the minimum floor area standards contained in the Quality Housing for Sustainable Communities Guidelines, DEHLG (2007), or as may be superseded. Table 3.20 outlines Minimum Standards for Housing which in relation to two bedroom houses is a minimum area of 80m² and minimum rear garden area of 55m².

Section 12.6.8 refers to Residential Consolidation and in relation to Corner / Side Garden Sites and that development on corner and / or side garden sites should be innovative in design appropriate to its context and should meet criteria which include:

- In line with the provisions of Section 6.8 Residential Consolidation in Urban Areas the 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;
- 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.
- The architectural language of the development (including boundary treatments) should generally respond to the character of adjacent dwellings and create a sense of harmony.
- A relaxation in the quantum of private open space may be considered on a case by-case basis whereby a reduction of up to a maximum of 10% is allowed, where a development proposal meets all other relevant standards and can demonstrate how the proposed open space provision is of a high standard, for example, an advantageous orientation, shape and functionality;
- Any provision of open space to the side of dwellings will only be considered as part of the overall private open space provision where it is useable, good

quality space. Narrow strips of open space to side of dwellings shall not be considered as private amenity space.

Section 12.7.4 outlines Car Parking Standards which are indicated as maximum standards.

5.2. Natural Heritage Designations

Not relevant

5.3. EIA Screening

- 5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows,

- The proposal provides for adequate car parking.
- There is precedence for a similar type development at 44 Paric Mhuire.
- Reference is made to a porch permitted under SD07A/0109.
- In relation to having an overbearing impact on the adjoining property to the east the rear of the proposed dwelling has an aspect onto the gable of the property no 44 and there is only a window providing light to the stairwell on this elevation.
- There is an existing 1800mm boundary wall and no sightlines ground floor to ground floor.
- The ridge height is as the existing dwelling.
- The impact on adjoining property is minimal.

6.2. **Planning Authority Response.**

The planning authority in a response indicate that the issues raised in the grounds of appeal are addressed in the Chief Executives Order and confirms its decision to refuse permission.

6.3. **Observer Submission.**

The observer in a submission in summary refers to;

- The proposed development would be directly overlooking his back garden and kitchen and erode his privacy.
- The development would negatively impact on the observer and his family blocking out natural light.
- The development would be overbearing and result in overlooking.
- The issue of parking is referred to and the current problems in the area arising from parking and the risks of a serious accident.
- Reference is made to disturbance arising from the construction of the proposed development.

7.0 **Assessment**

7.1. The main issues in this appeal are largely those raised in the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Principle of the development.
- The reason for refusal.
- Site development standards/design.
- Appropriate Assessment

7.2. Principle of the development

7.2.1. The site is located within a residential area with a residential zoning. The proposed development is therefore acceptable in principle. The CDP does provide for the

principle of the subdivision of sites. The current South County Dublin Development Plan 2022-2028 does however outline provisions for the assessment of individual proposals for development in particular subdivision of sites/corner sites which in general also reflects national guidance.

7.3. The reason for refusal.

- 7.3.1. The reason for refusal refers to a number of issues, including inadequate space to park a car to the front of the existing and proposed dwelling, and an unacceptable overlooking and overbearing impact on the adjoining residential property located to the east of the subject site.
- 7.3.2. I note that in the assessment of the proposed development issues were considered to arise in relation to private open space and the internal accommodation of the proposed dwelling but were not sought for further clarification as other matters determined that the application would be refused.
- 7.3.3. In relation to the issue of car parking the roads report dated the 3rd August 2023 indicates no objections in relation to the width of the entrance but recommends refusal based on as the proposed porch reduces the car parking area to the front of the property and leaves a clearance of only 4.507m (much less than the minimum requirement of 6m). Conditions in the event of a permission being granted are also outlined.
- 7.3.4. The provision of a porch in front of the existing dwelling and the provision of a similar projection forward of the main front building line of the proposed new dwelling does significantly compromise the satisfactory provision of an off street car parking space for the existing and proposed dwelling. In relation to the dimensions of parking spaces these can vary but usually are in the range of 4.8 metres to 6 metres in depth. Lower range dimensions in relation to parking bays are acceptable in car parks where it is a parking bay off a circulation aisle but a greater depth is desirable and necessary in front gardens and to provide for a gated entrance.
- 7.3.5. In relation to the appeal site, it is likely that a mid-sized vehicle would find it difficult to park without encroaching onto the public pavement even parking up to front building line as proposed. It would also not be possible to provide for entrance gates which would only open inwards if a vehicle was parked in the front garden/driveway given the restricted depth and could only open outwards onto the public pavement. It

is also unclear if a vehicle can manoeuvre into the front garden area to park at an angle without a more detailed track analysis to demonstrate if such a provision can be achieved without compromising traffic and pedestrian safety. Without the porch or forward projection off street parking for the two dwelling units would possibly be attainable but as currently proposed it is not.

- 7.3.6. In relation to an unacceptable overlooking and overbearing impact on the adjoining residential property located to the east of the subject site which is also stated in the reason for refusal corner sites in urban areas does present issues but it is noted that the dwelling on site 44A Pairc Mhuire does not have habitable rooms directly on the gable elevation facing towards the appeal site. The proposed dwelling would a bedroom window at the rear which faces towards this gable and also towards the rear garden of 44A Pairc Mhuire and also that in an urban context of two storied development existing overlooking from all properties including 44A Pairc Mhuire in the vicinity occurs.

It is noted that policy H11 of the CDP in relation to Privacy and Security promotes a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing and in relation to the current proposal an unsatisfactory level of direct overlooking from the first floor bedroom window would occur and the level of potential overlooking is I consider acceptable. A recasting of the layout of the proposed dwelling could potentially address the scale of overlooking orientating the overlooking from upper floor habitable windows away from private open space areas to overlooking areas more in the public realm but as currently proposed the overlooking is unacceptable in the context of safeguarding existing residential amenities.

In relation to an overbearing impact, I do not consider that at a distance of in excess 6 metres given the orientation of existing and proposed dwellings the proposed new dwelling would not have an overbearing impact.

- 7.4. Site development standards/design.
- 7.4.1. In relation to design section 6.8 of the current CDP refers to Residential Consolidation in Urban Areas and section in particular 6.8.1 to Infill, Backland, Subdivision and Corner Sites and to favourably considering 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 as identified in Chapter 12: Implementation and Monitoring. In considering the criteria outlined H13 Objective 5: requires that new development in established areas does not unduly impact on the amenities or character of an area and in this regard the proposed development maintains the existing building lines, existing heights and general design principles of the area and does not I consider unduly impact on the character of the area.

- 7.4.2. The requirements of section 6.7.3 does refer to the need for the provision of adequate and well-designed private and semi-private open space and is crucial in meeting the amenity needs of residents and policy H9 in relation to Private and Semi-Private Open Space Policy requires ensuring that all dwellings have access to high quality private open space and semi-private open space. H11 Objective 3 indicates to ensure that private open spaces, where it consists of gardens, are enclosed within perimeter blocks behind the building line and that they are subdivided by suitably robust boundary treatments of a sufficient height and composition to provide adequate privacy and security. It is also indicated that in limited circumstances, some discretion may be provided for where the configuration of the space can provide for private and secure space, to a high quality, elsewhere on the site than behind the building line.

Section 12.6.7 refers to Residential Standards and that all houses must comply with or exceed the minimum floor area standards contained in the Quality Housing for Sustainable Communities Guidelines, DEHLG (2007), or as may be superseded.

Table 3.20 outlines Minimum Standards for Housing which in relation to two bedroom houses is a minimum area of 80m² and minimum rear garden area of 55m² though there is some level of latitude in relation to attaining these standards.

In relation to the proposed development the configuration of the site does present a challenge in relation to provision of private open space. The current dwelling, I would estimate can achieve a garden area of 55m² within the sub-division of the site. In relation to the new dwelling private open space is proposed at the rear and side of the proposal.

In the CDP it is indicated that any provision of open space to the side of dwellings will only be considered as part of the overall private open space provision where it is

useable, good quality space. Narrow strips of open space to side of dwellings shall not be considered as private amenity space.

The area to the rear would be in excess of 20m² and the side garden which would be behind a 1800mm existing wall would also provide a private open space for the occupants of the dwelling would have an area of I estimate of in excess of 25m² which is not a narrow strip of space and would be a readily useable and functional private space for future occupants and therefore a satisfactory provision.

In overall quantum of private open space there would be an overall deficit in complying with current standards but the space provided is useable and functional.

Minor adjustments of the boundaries of subdivision would permit both dwelling units to be above or near the minimum standards. I would therefore consider open space provision adequate.

- 7.4.3. In relation to the area of the proposed dwelling and the requirements of attaining standards as outlined in the Quality Housing for Sustainable Communities Guidelines 2007 an examination of the proposal as submitted would indicate that the proposal as submitted complies with the guidance in relation to habitable room areas and internal storage provision.

7.5. Appropriate Assessment Screening

- 7.6. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

- 8.1. I recommend permission be refused.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, it is considered that the proposed development by reason of its design and layout has inadequate

depth between the front building line and front boundary adjoining the public footpath to provide an adequate space to satisfactorily park a car to the front of the existing and proposed dwelling which would as a consequence potentially impact on the safety of users of the public pavement.

The proposed development as currently proposed would therefore seriously injure the amenities of property in the vicinity and the safety of pedestrians and would therefore be contrary to the proper planning and sustainable development of the area.

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.

Derek Daly
Planning Inspector

28th December 2023