



An
Bord
Pleanála

Inspector's Report

ABP-318317-23

Development

Demolition of side extension to facilitate new access road for the construction of a two storey dwelling, to the rear of existing dwelling.

Location

The Sheiling, 36B Chapelizod Hill Road, Chapelizod, Dublin 20
D20AW80

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

WEB1655/23

Applicant(s)

Therese Wright and James Murphy

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Observer(s)

Eamonn O Cathaill
Edwina McQuillan and Patrick Malone
Mark and Anthea Kelly

Anthony Edward and Briege
McAlester

Date of Site Inspection

30th May 2024

Inspector

John Duffy

1.0 Site Location and Description

- 1.1.1. The site is located on the hillside above Chapelizod and overlooks the Liffey Valley and Phoenix Park in the distance. No. 36B is the second in a row of six detached dwellings on a cul-de-sac accessed by way of a narrow lane from the southern side of Chapelizod Hill Road, between Chapelizod and Ballyfermot, and immediately to the west of the Chapelizod By-pass. The original entrances to the dwellings were from the northern boundary, with the laneway facilitating rear access to the back gardens. Construction of the Chapelizod By-pass resulted in large parts of the front gardens and entrances to these houses being compulsory purchased by Dublin City Council in the early 1990s.
- 1.2. The host property which was originally of single storey design was extended by way of a large two storey extension in recent years. The stated total area of the plot which accommodates the host property and the proposed development site is given as 1050 sqm; it is rectangular in configuration and measures at approximately 16m wide over its entire 66m length.
- 1.3. The appeal site located towards the end of the garden at the front of the original house slopes steeply beyond the house and towards the bypass. The appeal site is overgrown and unkempt. There are mature trees and hedges proximate to the side / northern boundary and they stand within the curtilage of the adjoining site (No.36A). A brick wall forms the side boundary with No.36C to the south. A retaining wall at the rear of the appeal site separates it from the by-pass below.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Demolition of a single storey side extension (given as 17 sqm) which accommodates a walk-in-wardrobe, an ensuite bathroom and a store, in order to facilitate a new access road for the construction of a new detached two storey dwelling (165 sqm) with a mono-pitched roof (7 m in height)
 - Provision of a private terrace at first floor level and a sunken enclosed courtyard and terraced garden below, both located at the south-western side of the proposed house

- A bike and bin store, an external store, and all associated site works
- 2 no. parking spaces

The applicant, in their appeal submission, proposes the following design changes:

- (i) Addition of slats to the glazing on the southern elevation at first floor level, and (ii) Provision of a green roof for the new dwelling.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission on the 26th September 2023 for the following reasons:

1. Having regard to the Z1 zoning objective for the site, and to the scale, mass, design, height and proportions of the proposed development, which will be sited in the front garden of the subject dwelling, it is considered that the proposal would adversely impact on the residential amenities of adjoining residents by way of over-bearing and overlooking. In addition, the extent of tree removal, earth works and new structures proposed would result in a development that would appear visually incongruous in comparison with the adjoining properties and erode the character of the area. The proposal would result in overdevelopment of the site by failing to provide for a sufficient level of amenity for proposed residents and would fail to ensure an adequate quantum of private open space would be retained for the existing dwelling at 36B Chapelizod Hill Road. The proposed development would, therefore, by itself and by reason of the undesirable precedent it would set for similar development in the area, be contrary to proper planning and sustainable development.
2. The laneway, due to its constrained width, lack of vehicle turning facilities is considered to be substandard and the proposed development would result in increased pedestrian, cyclist and vehicle use and conflict. The capacity of the laneway to facilitate an intensification of use, providing safe vehicular access and egress arrangements for all vehicular access required to service the proposed development including private car, service, delivery and vehicles, and

emergency vehicles have not been demonstrated, and the proposed development would be contrary to the policy of the planning authority as set out in Section 15.13.4 Backland Housing, 15.13.3 Infill/Side Garden Housing Developments and Appendix 5, Section 2.1 Layout and Access and Section 2.4 Service Delivery and Access Strategy of the Dublin City Development Plan 2022 – 2028. The proposed development would set an undesirable precedent for the laneway, and is considered to be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the area planner notes the site's planning history, the policy context, reports received and third party submissions made in respect of the planning application. The report reflects the decision to refuse permission and is summarised below:

- Concern expressed in relation to the separation distance (16 metres) between first floor windows of the existing house and the proposed unit resulting in the proposed first floor terrace and sunken patio area being overlooked.
- Removal of rear garden space to erect the dwelling will result in a loss of private amenity space for the host dwelling.
- Concern in relation to the overbearing and dominant impact of the proposed structure on adjoining properties which would be particularly acute when viewed from the main living areas and gardens of these properties.
- Proposed unit would appear incongruent relative to the scale and massing of other dwellings and their generous surrounding open spaces, and would not respect the character of the area.
- No information provided to demonstrate that the proposal would not adversely impact on trees, their roots or crown spread.
- Not demonstrated that ground floor bedrooms would have sufficient access to sunlight / daylight.

- Capacity of the laneway to facilitate intensification of use not demonstrated
- Proposal contrary to Development Plan policy (Section 15.13.4 Backland Housing, 15.13.3 Infill / Side Garden Housing and Appendix 5, Section 2.1 Layout and Access and Section 2.4 Service Delivery and Access Strategy).

The planning authority refused permission for the proposed development for the reasons listed under section 3.1 above.

3.2.2. Other Technical Reports

Transport Planning Division (TPD): Refusal recommended as reflected in Condition 2 of the Planning Authority's decision. Concern expressed in relation to the narrow width of the lane (at less than 3 metres for much of its length) leading to difficulties when vehicles encounter each other, the lack of turning space and the inaccessibility of the lane by service and other vehicle types. Noted that adequate vehicular access to and from the development is not demonstrated and concern is raised in terms of increased pedestrian, cyclist and vehicular use and conflicts arising in this regard. Noted that the potential for improvements to widen the laneway is limited in the absence of a collective agreement between relevant landowners at this location. Noted that site is located within Zone 2 where the maximum number of car parking spaces is one, however two spaces are proposed in the application.

Drainage Division: No objection subject to conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

A number of third-party submissions were received by the planning authority in respect of the proposed development. The main issues raised may be summarised as follows:

- Overlooking impacts leading to a loss of privacy
- Overbearing and overshadowing impacts arising from proposed development

- Access lane by reason of its narrow width is unsuitable to cater for additional house
- Inability of emergency vehicles to access the laneway
- Potential for proposed development to structurally undermine the integrity of the retaining wall adjoining the Chapelzod Bypass
- Proposal falls within a construction and maintenance zone to ensure structural integrity of retaining wall
- Impact of pile driving foundations on retaining wall
- Unclear if boundary walls and trees will be maintained
- Concerns that trees / their roots and canopies will be lost and damaged as a result of the construction works
- Drawings show no clear boundary between host property and proposed development
- Construction Management Plan required
- Use of proposed development queried
- Lane is in private ownership; there is no automatic right of way if a second property is constructed
- Previous permission on the site was not complied with
- Drainage arrangements not included on drawings
- Proposed access insufficient to accommodate plant and machinery for the construction phase
- Misleading format used for date on the site notice
- Site notice position does not accord with location given on the plan
- Concerns in relation to low water pressure
- Concern in relation to impact on area arising from construction traffic and works
- Inadequate parking provision

- Precedent of building in front garden area; building line should be retained
- Development out of character with adjoining properties
- Inadequate separation distances to site boundaries
- External finishes are unsuitable
- Negative impact on visual amenity of the area
- Views across the Liffey Valley and Phoenix Park will be compromised
- Light pollution
- Negative impact on biodiversity

4.0 Planning History

Appeal Site

Planning Authority Reference No. 3289/09 – Permission granted in September 2009 for demolition of existing front single storey extension, construction of a part one / two storey extension (127sqm) to the front of existing dwelling, construction of a single storey extension to the rear, conversion of garage to study and associated works.

No.36A (Neighbouring property to north)

Planning Authority Reference No. WEB 1820/20 – Permission granted in January 2021 for part-demolition of utility room and sub-division of existing site to side of No. 36A for two storey 3 bed detached house. Site works include new vehicular access gate to public boundary with reduced height boundary wall and piers and 2m high block separating wall between sites and new soakaway. This permission is not implemented to date.

An Bord Pleanála Reference PL29S.206808 / Planning Authority Reference No. 1179/04 – Permission refused in March 2004 for two storey 3 bedroom house in side garden, new entrance and associated site works. Permission was refused on the basis that, inter alia, the proposed development would break an established building line, create a prominent structure on the brow of a hill and seriously injure the amenities of the area and property in the vicinity.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

The proposed development was considered by the Planning Authority under the Dublin City Development Plan 2022-2028.

Zoning

The site is zoned Z1 - Sustainable Residential Neighbourhood (Zoning Map D refers), where it is an objective “To protect, provide and improve residential amenities.”

Development Standards

Section 15.13.3: Infill / Side Garden Housing Developments

The planning authority will favourably consider the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements.

The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

- The character of the street.
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.
- Accommodation standards for occupiers.
- Development plan standards for existing and proposed dwellings.
- Impact on the residential amenities of adjoining sites.
- Open space standards and refuse standards for both existing and proposed dwellings.
- The provision of a safe means of access to and egress from the site.

- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of the front and side building lines, where appropriate.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas and the Council will support innovation in design.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable and should be avoided.
- Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking footpaths, roads and open spaces for visual amenity and passive surveillance.

Section 15.13.4 Backland Housing

Applications for backland housing should consider the following:

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
- The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.

- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

All applications for infill developments will be assessed on a case by case basis. In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas. The applicant must demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal.

Section 15.11: House Developments

- Internal layout to comply with the national guidance.
- Orientation of dwellings to maximise daylight and sunlight.
- Provision of private open space.

Chapter 5 of the Development Plan relates to Quality Housing and Sustainable Neighbourhoods. Key policies include:

- QHSN6 – Urban Consolidation *To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.*
- QHSN10: Urban Density *To promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high*

standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

- QHSN04: *Densification of Suburbs To support the ongoing densification of the suburbs and prepare a design guide regarding innovative housing models, designs and solutions for infill development, backland development, mews development, re-use of existing housing stock and best practice for attic conversions.*
- QHSN37: *Houses and Apartments To ensure that new houses and apartments provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.*

Appendix 5, Section 2.1 Layout and Access

The layout for all developments shall seek to maximise pedestrian permeability within the development and to improve pedestrian and cycle linkages to the wider road network, as far as possible. A walkability and/or cyclability audit may be required depending on the location of the development and existing provisions within the local road network.

All developments, from one-off housing to large scale mixed use development, shall demonstrate safe vehicular access and egress arrangements. All vehicular access shall be considered, including private car, service, delivery and vehicles, and emergency vehicles, in addition to applicable vehicular access requirements. Where possible, service areas shall be provided within the curtilage of the site to minimise the impact on the local road network.

Appendix 5, Section 2.4 Service Delivery and Access Strategy

The servicing requirements for any development should be established early in the preplanning process. Swept-path analysis shall also be submitted demonstrating the safe manoeuvrability of all vehicles servicing the site.

For residential developments, details of access for service vehicles shall be considered at an early stage in the design process. Access for emergency vehicles, refuse collections and general servicing needs (i.e., domestic/household deliveries) shall be adequately demonstrated.

5.2. National Policy

5.2.1. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

- SPPR 1 relates to separation distances. A distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units above ground floor level is required. The onus is on the proposer to demonstrate that residents will enjoy a high standard of amenity and that the proposal would not have a significant negative impact on the amenity of occupiers of existing residential properties.
- SPPR 2 relates to minimum private open space standards for houses and is given as 40 sqm for a 3 bed house.
- SPPR 3 relates to car parking provision and provides, inter alia, that in city centres and urban neighbourhoods car parking provision should be minimised, substantially reduced or wholly eliminated. Maximum rate of car parking provision for residential development is one space per unit

5.3. Natural Heritage Designations

The appeal site is not located within or in the vicinity of any European Site. The South Dublin Bay and River Tolka Estuary SPA is the closest European Site located approximately 8 km east of the proposed development. Liffey Valley proposed NHA is located within 1 km of the appeal site.

5.4. EIA Screening

- 5.4.1. See completed Form 2 below. Having regard to the nature of the proposed development comprising demolition of side extension, construction of 1 no. house and associated works, in an established urban area and where infrastructural services are available, 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

This is a first-party appeal against the decision of Dublin City Council to refuse permission for the proposed development. The issues raised are summarised below:

6.2. Impact on residential and visual amenities

- Proposed development has been designed to mitigate any adverse impact on the residential amenities of adjoining residents.
- There is no overlooking from windows, the terrace or outside area.
- Distance from proposed development to neighbouring properties is approximately 20 metres.
- Given the dense treeline and hedgerow between the site and No. 36A the property will not be visible from that adjoining site.
- The trees ensure the privacy of the adjoining neighbours at No. 36C. The roof of the proposed house would be seen from the first floor windows of that adjoining property.
- To reduce overlooking impacts the design has changed to include slats on the glazing at the front elevation of the proposed house and no one can see in. Reference made to Image 4 of the appeal submission which includes the slats. This tweak also addresses the concern of overlooking from the applicant's house to the proposed new dwelling. Provision of a wall also ensures privacy.
- Reference is made to Section 16.10.2 of the Development Plan which states that where adequate separation distance cannot be achieved, this can be relaxed if design solution is implemented.
- The required earthworks are designed to sink the proposed building reducing any visual impact.

- There is adequate amenity space serving the host property and the proposed development (Diagram shows location of proposed amenity areas).

Access / Parking

- Having regard to Section 2.4 of the Development Plan relating to access and service delivery, a new house has been permitted at No. 36A and is a precedent given it will be accessed by the same lane.
- In terms of vehicular turning manoeuvres the applicant has already addressed this matter by removing their gate and shrubs and as such all neighbours / visitors benefit in this regard.
- The proposed development would contribute minimally to laneway traffic. Impact of another house would be negligible given the construction of more than 170 apartments on Chapelizod Hill Road.
- The proposal involves demolition of the side of the existing house and this will facilitate emergency access should the need arise.
- If parking provision is insufficient this could be addressed with more spaces if necessary.

Other

- The secluded nature of the laneway has been compromised by apartment development on the south side of the laneway.
- The existing living / kitchen area of the host property is extensively glazed and is overlooked by many apartment units. Living on the other side of the house would mean privacy would be regained.
- There are no plans to remove any mature trees; these are all on neighbouring sites and not within the applicant's boundary.
- Should a tree root survey be required the landscape design can be revised to accommodate survey findings.
- There is precedent for development on the lane with the granting of a house at No. 36A.

- Reference made to examples of infill houses in the general area which were granted permission; images / photographs provided.
- There is a need to utilise land and provide homes in this urban location.
- Condition 6 of the 2009 permission required the front building line of the permitted extension to not extend beyond the building line at first floor level established by the adjoining property at No. 36C. To cite building line restrictions on both sides of the house represents conflicting advice from the local authority.
- Proposed development directly addresses housing shortage issue while maintaining urban sustainability. The applicants are keen to provide housing security for family members.
- Commitment to minimise impacts on neighbours.
- Proposal is an example of sustainable living and exceptional design.
- An amended design comprising a green roof to encourage wildlife is now also proposed.

6.3. Planning Authority Response

6.3.1. A response from the planning authority requested the Board to uphold the decision to refuse permission. It requested that the following conditions are included if a decision is made to grant permission:

- Section 48 Development Contribution
- A condition requiring payment of a contribution in lieu of open space requirement not being met (if applicable)
- A naming and numbering condition.

6.4. Observations

Four observations were received in respect of the proposed development. Three of these are from residents of the laneway at Nos. 36A, 36C and 36D. The submissions may be summarised under the headings as follows:

Impacts on residential and visual amenities

- The proposal comprises a dominant and overbearing structure above the retaining wall which significantly impacts property in the area and amenity.
- Overlooking impacts from elevated walkway and terrace and windows on front elevation
- First floor terrace area only 1.5m from adjoining boundaries
- Applicants depending on existing trees and shrubs outside their control to mitigate overlooking impacts; some of these are deciduous and as such screening is reduced
- There is no guarantee the proposed screen / slats will be constructed or maintained
- Screen will detract from the residential amenity of future occupants
- Proposed slats can be angled affording no privacy to neighbours
- Design appearance and prominent location of the proposed building approximately 1m from the elevated bypass boundary does not offer the applicant's privacy
- Negative impacts for adjoining neighbours arise given the design, scale and height of the proposed development
- Lack of private amenity spaces
- Access route to the site will impact the privacy of residents at 36A
- Proposed house will detract from the views neighbouring properties have of the Liffey Vally and Phoenix Park
- Proposed development is out of character / visually incongruous

Rear retaining wall

- Concerns raised that the retaining wall adjoining the Chapelizod Bypass would be damaged during the construction process and if so, who would bear the cost and how would impacts on traffic on the bypass be handled

- Observer was advised previously that a construction and maintenance zone would be required to ensure the structural integrity of the wall and access would be required for future maintenance

Impact on Trees

- Likely that trees will die due to the impacts during the construction phase
- No information provided which demonstrates the proposed development would not adversely impact trees, their roots and canopies. In this regard, a detailed tree survey and arborist assessment is required to determine any impacts on trees

Access

- Inadequate width and capacity on the laneway to cater for the proposed development
- Width of laneway very narrow and as such there is inadequate access for emergency vehicles
- The land required to access the proposed development is not in the applicant's control
- It is not felt that the applicant's right of way extends to a second property on their plot

Other

- Proposed drawings do not show the existing land drains running east-west across the rear gardens; concerns raised in the event drainage is removed to construct the new house
- It is not the case that the additional house permitted to the side of No. 36A has established a precedent; it respects the established building line and is an infill unit to the side of the existing house on the site. Furthermore, the house would have its own entrance from the laneway. The proposed new house at No. 36B would be constructed in the front garden.
- The examples of new houses in the general area cited by the appellants are not relevant to the site or the proposed development.

- The existing house at 36B has been used for short-term letting which has resulted in the access laneway being blocked by traffic
- Questions whether the proposed development would be used as a commercial venture
- Concern raised in relation to alleged non-compliance with planning conditions relating to the permitted extension to the host property at No. 36B
- Negative impact on wildlife
- Concerns in relation to negative impacts arising during the construction phase
- Proposed development would set a precedent for development in front gardens

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and all drawings, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Impact on the residential amenities of the area
- Impact on the character of the local area
- Access and Parking
- Other issues
- Appropriate Assessment

7.2. Impact on the residential amenities of the area

7.2.1. The proposed 3 bedroom, 4 person dwelling would offer a good standard of internal accommodation to future occupants, exceeding minimum standards in terms of room sizes as set out in 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities.'

- 7.2.2. The proposed dwelling is to be constructed within the existing garden of the host property. The site layout plan shows that in terms of private amenity space the new dwelling would be served by sunken garden / patio (stated as 80 sqm) effectively at lower ground floor level, along with a first floor terrace accessed by a walkway above the sunken patio area. The boundary between the reduced garden serving the host property and the new development comprises a 1.1 m high rendered wall as indicated on the proposed site plan (Drawing No. P-003).
- 7.2.3. Given the separation distance of approximately 7 m between the host property and the boundary of the proposed development, there would be overlooking opportunities from both the host property and its garden area onto the private amenity space (i.e., the sunken garden / patio area) serving the proposed dwelling. As such, the privacy and residential amenity of future occupants would be adversely affected.
- 7.2.4. Similarly, there would be overlooking impacts leading to loss of privacy onto the remaining reduced private amenity space associated with the host property and the adjoining property at No.36C to the south from the proposed walkway leading to the first floor terrace of the new dwelling and indeed from the terrace itself.
- 7.2.5. Given the position of the proposed dwelling approximately 1.5 m from both side boundaries along with the height and extent of the side elevations of the new house at c 9.8 m in length, the proposed development would in my view have overbearing impacts on both the adjoining gardens associated with Nos. 36A and 36C.
- 7.2.6. Having regard to the foregoing I consider the proposed development would be seriously injurious to the residential amenity of the host property and the adjoining properties and as such the proposal would not accord with Sections 15.13.3 and 15.13.4 of the Development Plan relating to Infill Housing and Backland Housing, respectively.
- 7.2.7. Furthermore, in my opinion the proposed development constitutes overdevelopment of the site, as evidenced by the failure to provide private open space which would not be overlooked and also given the adverse impacts on the residential amenities of the host property, as referred to above.

7.3. Impact on the character of the local area

- 7.3.1. The laneway itself and the adjoining plots which accommodate the row of 6 houses accessed from it are sylvan and secluded. The dwellings enjoy elevated positions above the Chapelizod By-pass and are situated on relatively long plots with a fall in topographical levels towards the bypass. The area contains many significant and mature trees and vegetation which create a strong sense of character.
- 7.3.2. I concur with the Planning Authority's view that the proposed development would negatively impact the character of the immediate / local area. The proposed house would be a significant intervention into the landscape and would require provision of extensive hard surfacing and retaining features. The proposed house appears visually incongruent by reason of its scale, massing and restricted backland location, in the context of the existing residential development in the immediate vicinity.

7.4. Access and Parking

- 7.4.1. I note the report prepared by the Transport Planning Division which informs the second refusal reason and expresses concerns in terms of, inter alia, the narrow width and capacity of the access laneway to facilitate an intensification of use.
- 7.4.2. In terms of parking, while the public notices indicate provision for two parking spaces to the rear of the existing house, it is clear from the site plan that these spaces are located to the front of the site, proximate to existing parking provision serving the host property.
- 7.4.3. Development Plan Map J demonstrates that the appeal site is within Parking Zone 2 given its location proximate to a key public transport corridor, where a maximum standard of one parking space per unit is provided (Table 2 of Appendix 5 of the current Development Plan refers).
- 7.4.4. If the Board is minded to grant permission for the proposed development, I recommend that the number of proposed parking spaces is reduced from two to one, which would accord with parking provision under Parking Zone 2.
- 7.4.5. While I acknowledge the issues raised by the Planning Authority and observers relating to vehicular access to and intensification of the use of the laneway, I do not consider that the additional traffic movements generated by the proposed

development would be significant. In this context I also note the low speed environment of the access laneway, given its constraints in terms of width and the absence of turning areas.

7.5. Other issues

7.5.1. Right of way issue / Lands not in applicants' control

Observers have commented that the land required to access the proposed development is not in the applicants' control and that it is felt the applicants' right of way does not extend to a second property on their plot. I note that the planning system is not designed as a mechanism for resolving disputes about title to land or rights over land. These are civil matters for resolution by the courts.

7.5.2. Rear retaining wall

A number of observers express concern in terms of the potential impact of the proposed development on the integrity of the retaining wall, located at the bottom of the appeal site, adjoining the Chapelizod Bypass. In my view such concerns are legitimate given the nature of the proposed development which involves excavations and other works proximate to the wall. Should the Board be minded to grant permission for the proposed development I would recommend that a pre and post condition survey of the retaining wall is sought.

7.5.3. Precedent

I do not concur with the appellant's view that the dwelling permitted under Planning Authority Reference WEB 1820/20 constitutes a precedent for the proposed development. In that instance permission was granted for a new residential unit to the side of the existing house at No.36A with a separate entrance from the laneway. The dwelling proposed is located in the front garden of the host property and would not have the benefit of an independent separate vehicular entrance from the carriageway.

7.5.4. Noise

The proposed house would be elevated above the Chapelizod Bypass (R148) and as such the residential amenity of future occupants may be affected by traffic

movements from the regional road below. I note that Dublin City Council has published Strategic Noise Maps, which, inter alia, provide a source of information for the general public on environmental noise and its effects. A more detailed examination of noise issues would be required to determine ambient noise levels at specific locations, including the subject site.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, its location relative to European sites, the absence of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reason and considerations set out below.

9.0 Reason and Considerations

1. It is considered that the proposed development, located in the front garden of the host property, would, by reason of its height, scale, massing and inadequate separation distances to boundaries, seriously injure the residential amenities of adjoining properties through overlooking and overbearing impacts. The private amenity space of the proposed dwelling would also be overlooked, seriously injuring the residential amenities of future occupants. The proposed development, would, therefore be contrary to Sections 15.13.3 and 15.13.4 of the Dublin City Development Plan 2022-2028 relating to Infill Housing Developments and Backland Housing respectively, and would not be in accordance with the Z1 zoning objective which is 'To protect, provide and improve residential amenities.' Furthermore, the proposed development would constitute overdevelopment of the site having regard to the adverse impacts on the residential amenities of the host property along with the failure to provide for a sufficient standard of amenity for future residents.

Therefore, the proposal would be contrary to the proper planning and sustainable development of the area.

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

John Duffy

Planning Inspector

7th June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318317-23		
Proposed Development Summary	Demolition of extension, construction of 1 no. detached dwelling and all associated site works.		
Development Address	The Sheiling, 36B Chapelizod Hill Road, Chapelizod, Dublin 20 A20 AW80		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (500 DHS)	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318317-23	
Proposed Development Summary	Demolition of extension, construction of 1 no. detached dwelling and all associated site works.	
Development Address	The Sheiling, 36B Chapelizod Hill Road, Chapelizod, Dublin 20 A20 AW80	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is zoned Z1 – Sustainable Residential Neighbourhoods. The proposed development is not exceptional in the context of existing environment.</p> <p>Construction waste can be managed through standard Waste Management Planning. Localised construction impacts will be temporary.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>	<p>No. The total plot size is c 1050 sqm.</p>	No

regard to other existing and/or permitted projects?	No.	
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	No. The nearest European site is the South Dublin Bay and River Tolka Estuary SPA located c 8 km east of the appeal site. There are no other locally sensitive environmental sensitivities in the vicinity of relevance.	No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.		

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)