



An
Bord
Pleanála

Inspector's Report

ABP-320986-24

Development	Construction of a dwelling and all ancillary works.
Location	50 Grangebrook Avenue, Rathfarnham, Dublin 16.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD24A/0178
Applicant(s)	Eoin Tuohy
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	17 th January 2024
Inspector	Kenneth Moloney

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Planning Authority Reports	4
3.2. Prescribed Bodies	5
3.3. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	7
• None relevant	7
6.0 EIA Screening.....	7
7.0 The Appeal	7
7.1. Grounds of Appeal	7
Private Open Space.....	7
7.2. Planning Authority Response.....	8
7.3. Observations.....	8
8.0 Assessment	8
9.0 AA Screening.....	14
10.0 Recommendation	14
11.0 Reasons and Considerations.....	14
Appendix 1 – Form 1: EIA Pre-Screening	
Form 2: EIA Preliminary Examination	

1.0 Site Location and Description

The appeal site is a two-storey semi-detached red brick dwelling located within a suburban housing development in Rathfarnham, Dublin 16.

The subject semi-detached house is situated at the end of a row of houses and the property includes a front garden and a driveway with off-street car parking provision.

The property also includes a side garden to the front, enclosed by a c. 2.4 metre leylandii hedge. The property includes a side external pedestrian access to the rear garden and a c. 2-metre-high dividing boundary wall separating the side garden to the front from the rear garden.

The existing rear garden, essentially the existing private open space, comprises of a side garden and a smaller patio area to the rear of the house. The width of the existing rear side garden narrows from its widest point to the front (east) towards the rear.

The subject property also includes a single storey extension to the rear and a concrete single storey shed located adjoining the rear garden boundary.

2.0 Proposed Development

The proposed development relates to a two-storey detached house situated to the side of the existing house, no. 50 Grangebrook Avenue.

The floor area of the proposed house is 85 sq. metres comprising of ground floor (49 sq. metres) consisting of a kitchen / dinning area to the front and a living area to the rear. The first-floor area (36 sq. metres) comprises of two bedrooms.

The proposed floor areas of the individual rooms consist of the following.

Room	Floor Area
Kitchen / Dinning	19.4 sq. m.
Living room	13.25 sq. m.
Bedroom 1	12.5 sq. m
Bedroom 2	9.2 sq. m.

The proposed development includes off-street car parking provision for 1 no. vehicle. This is provided by replacing the front garden to the front of no. 50 Grangebrook Avenue with a car parking space serving the existing house and providing a second adjoining car parking space for the proposed house, to the side of no. 50 Grangebrook Avenue.

The private open space for the proposed development includes the front garden area, enclosed by a 2-metre-high boundary hedge, which measures approximately 26 sq. metres. The private open space provision also includes a space to the rear of the proposed house, measuring approximately 9 sq. metres.

The proposed 2-storey house is primarily finished in selected brick finish, to match existing house, and includes aluminium / timber panels at first floor level. The proposed roof will comprise of selected roof tiles to match existing dwelling.

3.0 Planning Authority Decision

The Planning Authority **refused** planning permission for the following reason.

The proposed development by reason of form and layout would represent overdevelopment of the subject site and result in a substandard level of residential amenity for future occupants in a manner that would materially contravene the provisions of Section 12.6.8 of the 2022-2028 CDP regarding Residential Consolidation and the 'RES' zoning objective of the site which seeks to protect and/or improve residential amenity, and if permitted, would set an undesirable precedent for similar substandard development. The development as proposed would thus be contrary to proper planning and sustainable development of the area.

3.1. Planning Authority Reports

3.1.1. The Planner's report, in summary makes the following points.

- Inadequate provision of private open space contrary to Section 12.6.8 of the CDP.
- Roads Dept. recommend additional information or issues to be addressed by condition.

- Applicant must demonstrate sufficient legal interest in the site.

3.1.2. Other Technical Reports

- Roads Department: - Additional information requested.

3.2. Prescribed Bodies

- None

3.3. Third Party Observations

The LA received two third party observations and the issues raised include:

- Questioned whether private open space proposed in the front garden area is held by the applicant with appropriate consent or whether this land is public land.
- Proposal could negatively impact on the adjoining public space.
- Proposal would result in noise and disturbances to residential amenities.
- No consultation with residents to address community concerns.

4.0 Planning History

- No relevant planning history.

5.0 Policy Context

5.1. Development Plan

The appeal site is zoned 'RES' whereby the land use zoning objective is '*to protect and/or improve residential amenity*' in accordance with the provisions of the South Dublin County Development Plan, 2022 – 2028.

Section 6.8 'Residential Consolidation in Urban Areas'

6.8.1 '*Infill, Backland, Subdivision and Corner Sites*' of the Plan advocates sustainable intensification to secure the ongoing viability of facilities, services and amenities and to meet the future housing needs of the County.

Section 6.8.1 advises that standards in relation to residential consolidation are set out under Chapter 12: Implementation and Monitoring of this Plan and have been framed by the policies and objectives set out below

The relevant policies and objectives of Section 6.8.1 include the following;

- 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 1: To promote and support residential consolidation and sustainable intensification at appropriate locations and to encourage consultation with existing communities and other stakeholders.
- 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.

The following provisions in Chapter 12 (Implementation and Monitoring) are relevant to the appeal.

Section 12.6.8 Residential Consolidation 'Corner / Side Garden Sites'

refers to the following considerations (in summary)

- Site sufficient size to accommodate an additional dwelling(s).
- Dual frontage required.
- Design to respect front building line and roof profile of neighbouring house.
- Architectural language of the proposal to be consistent with the character of the area.
- Relaxation of private open space standards considered where proposal meets other standards and provides good quality private open space.
- Good quality private open space and usable space will only be considered.
- Narrow strips of private open space will not be considered.

5.2. Natural Heritage Designations

- None relevant

6.0 EIA Screening

Having regard to the nature and limited scale of the development and the separation of the site from the nearest sensitive receptor, 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. Refer to Form 1 and 2 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

Private Open Space

- Acknowledged that rear garden tapers to an acute angle.
- Proposed to discount rear garden below 1.5m in width resulting in a total provision of 5.5 sq. m to rear of house.
- Overall quantum of private open space would exceed 30 sq. m. and would satisfy the requirements for a two-bedroom house.
- Rear garden is south-west facing and will receive good quality light, from spring to autumn.
- Acknowledging that private open space is forward of the building line but acceptable given existing mature 2.4m high hedge to the front and proposal to extend hedge to the side of the proposed car parking space.
- Concerns that private open space to front is diminished due to proximity of car parking space are unfounded.

- Existing 2.4m high hedge will be used so no change to streetscape or impacts on public footpath.
- PA considered private open space is unacceptable due to its siting adjoining a public footpath.
- The private open space boundary for no. 1 & 2 Whitechurch View, situated approximately 30m to the north, adjoins the same public footpath as does no. 33 Grangebrook Ave., situated across the road from appeal site.

Other Concerns

- Proposed north-west boundary treatment is located within the redline ownership of the site.
- Front boundary line of the subject site is some 3.2m back from the road edge and sightlines would be achievable.
- Vehicular sightline drawing can be provided by condition.
- Public lighting pole in the way of relocated entrance to serve 50 Grangebrook Ave. will be removed and relocated to an agreed location with the PA.

7.2. Planning Authority Response

- PA confirms its decision.
- Issues raised in the appeal are covered in the Chief Executive's Order.

7.3. Observations

- None

8.0 Assessment

Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Principle of Development and Compliance with Policy

- Zoning
- Section 12.6.8 Corner / Side Gardens
- Material Contravention
- Other Matters

8.1. Principle of Development and Compliance with Policy

8.1.1. Zoning

The appeal site is zoned 'RES' whereby the land use zoning objective is '*to protect and/or improve residential amenity*' in accordance with the provisions of the South Dublin County Development Plan, 2022 – 2028. Therefore, having regard to the zoning objective of the appeal site the proposed residential unit on the subject site is considered acceptable in principle.

8.1.2. Section 12.6.8 Corner / Side Gardens

The relevant criterion for assessing the proposed development is Section 12.6.8 Residential Consolidation '*Corner / Side Garden Sites*' of the South Dublin Development Plan, 2022 – 2028, and I have summarised the relevant criteria in paragraph 5.1 above. I will address each of the criteria in turn.

- *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;*

Section 6.8 'Residential Consolidation in Urban Areas' of the CDP states the following '*standards in relation to residential consolidation are set out under Chapter 12: Implementation and Monitoring of this Plan.....*'.

Section 12.6.7 'Residential Standards' of the CDP offers guidance in relation to minimum private open space provision and minimum house size. In relation to

private open space provision the CDP¹ recommends a minimum area of 55 sq. metres for a two-bed house and recommends a minimum floor area of 80 sq. metres for a two-bed house.

The proposed house has a floor area of 85 sq. metres and the private open space provision is 35 sq. metres. The private open space provision (35 sq. m.) is therefore inadequate relative to the required level in the residential standards (55 sq. m.), and the proposal therefore offers a substandard form of residential amenity for future occupants.

I note that the appellant refers to the proposed private open space of 30 sq. metres as consistent with a minimum requirement of 30 sq. metres. The Section 28 Guidelines Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)² refers to a minimum private open space provision of 30 sq. metres for a two-bedroom house. Although I note that these Section 28 Guidelines post-date the adoption of the South Dublin CDP. I would consider that the quality of the private open space, owing to its location to the front of the house, would not offer a high quality space as required by the Guidelines. I have set out the reasons, under criterion no. 5 below why, in my opinion, the proposed private open space to the front is not a high-quality space. Therefore, in my view, in this specific case a lower standard for private open space relative to the minimum development plan standard would not be acceptable.

The proposed development would not unduly impact on any adjoining residential amenities, by reason of proximity to adjacent dwellings, given its location adjoining a public space to the north and given that the proposal will not result in the creation of a back-to-back dwelling.

- *Corner development should provide a dual frontage in order to avoid blank facades and maximise passive surveillance of the public domain;*

The proposed development offers dual frontage with both front (east facing) and rear (west facing) elevations. The proposed development would be consistent with this criterion.

¹ Table 20.12 (pg. 476)

² Section 5.3.2 Private Open Space for Houses

- *The dwelling(s) should generally be designed and sited to match the front building line and respond to the roof profile of adjoining dwellings where possible. Proposals for buildings which project forward or behind the prevailing front building line, should incorporate transitional elements into the design to promote a sense of integration with adjoining buildings;*

The front building line of the proposed two-storey house is situated 1.5 metres forward of the existing house, no. 50 Grangebrook Avenue. The proposed roof profile would also differ from the established character of the immediate area. The proposed development would therefore not be consistent with this criterion.

- *The architectural language of the development (including boundary treatments) should generally respond to the character of adjacent dwellings and create a sense of harmony. Contemporary and innovative proposals that respond to the local context are encouraged, particularly on larger sites which can accommodate multiple dwellings;*

The proposed development includes boundaries to the front of the site enclosing private open space provision, comprising of 2-metre-high hedge. This would represent a departure from the existing character, of open plan front gardens to the front of houses, and private open space solely contained to the rear.

- *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;*

I would consider that the quality of the proposed private open space provision is compromised given that the primary private open space provision is located to the front of the proposed house and therefore susceptible to the public domain.

I acknowledge the appellant's argument, the proposed private open space proposed in front of the house will be enclosed by a 2-metre-high hedge, as such offering privacy, and similar to other houses, such as no. 1 & 2 Whitechurch View and no. 33 Grangebrook Ave. However, in my view, the aforementioned properties differ from the proposed development in that these referenced established properties include front gardens consistent with the character of this suburban housing development,

and also include rear gardens which contain their respective primary private open space provision, also consistent with the character of the area.

In the proposed development the private open space is almost exclusively situated to the front of the house, which as referred to above makes a departure from the established character, of open plan front gardens to the front of houses. Therefore, the properties referred to above do not, in my view, represent precedents for the proposed development.

Further the proposed private open space provision adjoins a public footpath, public road and a public open space (to the immediate north) and therefore is subject to intrusion and a diminution of residential amenities for future occupants. Moreover this private open space is east facing and narrow in depth, at approximately 5 metres, and having regard to the nature of its orientation, which is east facing, is likely to be overshadowed for a substantial proportion of the day which would adversely impact on the quality of the private open space provision.

Furthermore, the proposed private open space provision to the rear of the house, approximately 9 sq. metres, is narrow in parts therefore restricting its usability, and is also enclosed between a 2-metre-high northern boundary wall and the northern elevation of the existing house. The average width of the space is 1.5 metres which would have an adverse impact on the quality of this space in terms of available daylight and sunlight.

- *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*

I have outlined above that I would have concerns with the narrow dimensions of the proposed private open space provision and therefore the quality of the private open space on offer for future occupants.

8.2. Material Contravention

The Planning Authority's refusal reason is based on the proposal being a material contravention to Section 12.6.8 of the CDP regarding Residential Consolidation and the 'RES' zoning objective of the South Dublin CDP.

Therefore, one or more of the criteria as set out in Section 37(2)(b) of the Planning and Development Act 2000, as amended, must be met in the event that the Board was minded to grant permission in this instance.

However having regard to the scale and nature of the development proposed, the established pattern of development in the area, and the policy provisions in the South Dublin CDP that support 'infill development', and notwithstanding the provisions of the South Dublin CDP in relation to residential standards as outlined above, I would not consider that the proposed development would materially contravene the South Dublin County Development Plan 2022-2028.

However, should the Board consider that the proposed development materially contravenes the South Dublin CDP, and is minded to grant planning permission I have assessed the proposal under the provisions of Section 37(2)(b). In this regard I submit that:

- a. The proposed development is not of strategic or national importance,
- b. The objectives of the development plan are quite clear insofar as the proposed development is concerned.
- c. There are no specific requirements set out in policy directives, relevant policies of the government nor regional planning guidelines which would support such a proposal.
- d. The pattern of development and permissions granted in the area since the making of the development plan do not suggest a predisposition to such type of development.

While outlined above, I do not consider that the proposal would materially contravene the Plan, if the Board considered that the proposed development materially contravened the development plan, they would be precluded from granting permission having regard to Section 37(2)(b).

8.3. Other Matters

A number of additional issues are raised over the course of the planning application and appeal process including site ownership in respect of the site boundary and the

front garden area. In respect of any disputed ownership, it is important to note Section 34(13) of the Planning and Development Act 2000, as amended, which states '*A person shall not be entitled solely by reason of permission under this section to carry out any development*'.

Another issue relates to the existing location of a lamppost to the front of the appeal site. The appellant has stated they would relocate the existing structure, consistent with the recommendation of the Road's Dept. This issue is therefore addressed, and should the Board be minded to grant planning permission I would recommend a condition is attached requiring the relocation of the lamppost.

9.0 AA Screening

Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

10.0 Recommendation

I recommend that planning permission be refused for the reason set out below.

11.0 Reasons and Considerations

The proposed residential development by reason of the inadequate quantity and quality of private open space provision, would offer a poor form of residential amenity for future residents, would represent overdevelopment of a restricted site, would therefore be contrary to Section 12.6.8 Residential Consolidation '*Corner / Side Garden Sites*' of the South Dublin Development Plan, 2022 – 2028. The proposed development would therefore set an undesirable precedent in the area, seriously

injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Senior Planning Inspector

12th February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320986-24		
Proposed Development Summary	Construction of a dwelling and all ancillary works.		
Development Address	50 Grangebrook Avenue, Rathfarnham, Dublin 16.		
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	✓
		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)?			
Yes	✓	Class 10(b)(i)	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	✓	Class 10(b)(i) of Part 2: threshold 500 dwelling units.	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

Yes	✓	Threshold = 500 houses Proposal = 1 house	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320986-24
Proposed Development Summary	Construction of a dwelling and all ancillary works.
Development Address	50 Grangebrook Avenue, Rathfarnham, Dublin 16
<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The subject development comprises one dwelling in a small side garden in a mature suburban area, characterised by residential development. The proposed two-bedroom house at 85 sq. m. is smaller in size to houses in the vicinity. The proposal is not considered exceptional in the context of neighbouring houses.</p> <p>During the construction phases the proposed development would generate waste. However, given the moderate size of the proposed development, I do not consider that the level of waste generated would</p>

	<p>be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the demolition, construction or operational phase due to the nature of the proposed use. The development, by virtue of its residential type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The subject site is not located within or adjoins any environmentally sensitive sites or protected sites of ecological importance, or any sites known for cultural or historical significance. The site also has no connectivity to any environmentally sensitive sites.</p> <p>Owing to the serviced urban nature of the site and the infill character of the scheme, I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area.</p>

Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		<p>The application site is not located in or immediately adjacent to any European site. The closest Natura 2000 site is c. 6 km, Glenasmole Valley SAC, site code 001209, There are no waterbodies or ecological sensitive sites in the vicinity of the site.</p> <p>The site is located within a serviced urban area and the site would be connected to public surface and foul sewers. I do not consider that there is potential for the proposed development to significantly affect other significant environmental sensitivities in the area.</p>
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)