

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

Reg. Reference: SD22A/0276 **Application Date:** 16-Jun-2022
Submission Type: New Application **Registration Date:** 16-Jun-2022
Correspondence Name and Address: Hogan Architects Studio 4, 115, Cork Street, Dublin 8, D08 AX0Y
Proposed Development: Detached 2 bedroom dwelling at the vacant garden plot site including dishing of existing footpath and kerb finishes allowing for vehicular access across the site boundary to enable the provision of 1 off street parking space and all associated site works.
Location: Vacant garden plot site adjacent to 36 Montpelier View, Dublin 24
Applicant Name: David, James, Denise and Yvonne Souhan
Application Type: Permission

(CM)

Description of Site and Surroundings:

Site Area: Stated as 0.0167 ha.

Site Description:

The application site comprises two parts: (i) part of the rear garden of 36 Montpelier View, a two-storey end of terrace house; (ii) an area of leftover green space in the public realm. The site is currently grassed with some shrubbery and contains an electricity service box, street lamp and street sign. The area is primarily residential in nature, approximately 2km west of Tallaght town centre.

Site visit: 4/8/22

Proposal:

Permission is sought for the following:

- Construction of a detached, three-bedroom, 2-storey house
- Dishing of footpath and curb to facilitate vehicular access for 1 car.

Zoning:

The site is subject to zoning objective 'RES' - *'To protect and/or improve residential amenity'*.

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

Consultations:

Water Services	Request Additional Information.
Roads	Request Additional Information.
Irish Water	No objection, subject to conditions.

Submissions/Observations /Representations

None

Relevant Planning History

SD21A/0293

Permission **refused** by An Bord Pleanála (upholding a decision of SDCC) for Construction of a detached, three bedroom dwelling at the vacant garden plot to include dishing of existing footpath and kerb finishes allowing for vehicular access across the site boundary to enable the provision of 1 off-street parking space and all associated site works.

SDCC Reasons for Refusal:

1. The private open space provided for the proposed house and the existing dwelling, No. 36, does not comply with the minimum private open space requirements as set out in Section 11.3.1 (iv) Dwelling Standards of the SDCC Development Plan 2016-2022 (Table 11.20: Minimum Space Standards for Houses). To comply a three bedroom house should have a minimum of 60sq.m of adequate private open space. The proposed house would have 46sq.m and the existing dwelling would be left with 29sq.m. Thus, the proposed development constitutes overdevelopment of the site and would contravene the zoning objective 'to protect and or improve the residential amenity of the area' and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the scale and layout of the proposed development on a constrained site, the proximity and configuration of neighbouring properties within Montpellier View, the proposed development would represent an overdevelopment of the subject site, would have an overbearing impact, give rise to overshadowing and have an adverse impact on the visual and residential amenity of properties in the immediate vicinity. Furthermore, the proposed development, being some 10m from the rear of dwellings to the west would give rise to unacceptable levels of overlooking and fall significantly short of the 22m required. The proposed development would seriously injure the amenities of property in the vicinity and would contravene the 'RES' zoning objective which seeks 'to protect and/or improve residential amenity' and would therefore not be in accordance with the proper planning and sustainable development of the area.

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

3. The proposed dwelling does not conform with the minimum target space requirements of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) or the South Dublin County Development Plan 2016 - 2022. The house would not provide adequate accommodation to serve the needs of future residents and would therefore not be in the interests of the proper planning and sustainable development of the area.

ABP Reason for Refusal:

The South Dublin County Development Plan sets a minimum of 60m² of private open space per three bed houses. The proposed dwelling house would not meet this minimum standard. Therefore, the proposed development would give rise to substandard residential accommodation, would materially contravene an objective set out in the County Development Plan and be contrary to the proper planning and sustainable development of the area.

Relevant Enforcement History

None recorded for subject site.

Pre-Planning Consultation

None recorded for subject site.

Relevant Policy in South Dublin County Council Development Plan 2022 - 2028

Chapter 3 Natural, Cultural and Built Heritage

Policy NCBH3 Natura 2000 Sites

NCBH3 Objective 3 (Appropriate Assessment)

Chapter 4 Green Infrastructure

Policy GI1 Overarching

GI1 Objective 4: To require development to incorporate GI as an integral part of the design and layout concept for all development in the County including but not restricted to residential, commercial and mixed use through the explicit identification of GI as part of a landscape plan, identifying environmental assets and including proposals which protect, manage and enhance GI resources providing links to local and countywide GI networks.

Policy GI2 Biodiversity

GI2 Objective 4: To integrate GI, and include areas to be managed for biodiversity, as an essential component of all new developments in accordance with the requirements set out in Chapter 12: *Implementation and Monitoring* and the policies and objectives of this chapter.

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

Policy GI4 Sustainable Drainage Systems

GI4 Objective 1: To limit surface water run-off from new developments through the use of Sustainable Drainage Systems (SuDS) using surface water and nature-based solutions and ensure that SuDS is integrated into all new development in the County and designed in accordance with South Dublin County Council's Sustainable Drainage Explanatory Design and Evaluation Guide, 2022.

Chapter 6 Housing

Section 6.8 Residential Consolidation in Urban Areas

Policy H9 Private and Semi-Private Open Space

Policy H11 Privacy and Security

H11 Objective 2

To ensure that all developments are designed to provide street frontage and to maximise surveillance of streets and the public realm.

Policy H13 Residential Consolidation

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.

Chapter 7 Sustainable Movement

Section 7.10 Car Parking

Policy SM7 Car Parking and EV Charging

SM7 Objective 1 Maximum car parking standards

Chapter 8 Community Infrastructure and Open Space

Section 8.7.5 Quality of Public Open Space

Policy COS5 Objective 16

To ensure that parks and public open spaces are carefully designed as safe spaces, by implementing the following measures:

- Providing active frontages and maximising passive surveillance from adjacent housing and / or public thoroughfares;
- Eliminating buildings which back-on or gable-front public open spaces;
- Designing corner units with active frontage;

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

- Encouraging increased use through improved access and quality of facilities’;
- Careful location, design and choice of surface materials and site furniture.

Chapter 10 Energy

Section 10.2 Energy Measures

Policy E3 Energy Performance in Existing and New Buildings

Chapter 12 Implementation & Monitoring

Section 12.3 Natural, Cultural and Built Heritage

Section 12.3.1 Appropriate Assessment

Section 12.3.3 Environmental Impact Assessment

Section 12.6.7 Residential Standards

(i) Housing

Table 12.20 Minimum Standards for Housing

Section 12.6.8 Residential Consolidation

(ii) Corner / Side Gardens

- Development on corner and / or side garden sites should be innovative in design appropriate to its context and should meet the following criteria:
- 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;
- Corner development should provide a dual frontage in order to avoid blank facades and maximise passive surveillance of the public domain;
- The dwelling(s) should generally be designed and sited to match the front building line and respond to the roof profile of adjoining dwellings where possible.
- Proposals for buildings which project forward or behind the prevailing front building line, should incorporate transitional elements into the design to promote a sense of integration with adjoining buildings;
- The architectural language of the development (including boundary treatments) should generally respond to the character of adjacent dwellings and create a sense of harmony. Contemporary and innovative proposals that respond to the local context are encouraged, particularly on larger sites which can accommodate multiple dwellings;
- 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;

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

- 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.

Relevant Government Guidelines and Policy

Ministerial Guidelines and Policy

Project Ireland 2040 National Planning Framework, Government of Ireland (2018).

Regional, Spatial & Economic Strategy 2020-2032 (RSES), Eastern & Midlands Regional Assembly (2019)

Section 5 – Dublin Metropolitan Area Strategic Plan, in Regional, Spatial and Economic Strategy 2019 – 2031.

Rebuilding Ireland: Action Plan for Housing and Homelessness, Government of Ireland (2016).

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, Department of the Environment and Local Government (2009).

Urban Design Manual, Department of the Environment, Heritage and Local Government, (2008).

Quality Housing for Sustainable Communities-Best Practice Guidelines, Department of the Environment, Heritage and Local Government (2007).

Design Manual for Urban Roads and Streets Department of the Environment, Community and Local Government and Department of Transport, Tourism and Sport (2013).

Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, Department of the Environment, Heritage and Local Government, (2009).

The Planning System and Flood Risk Management - Guidelines for Planning Authorities, Department of the Environment, Heritage and Local Government & OPW, (2009).

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

Assessment

The main issues for assessment concern the following:

- Zoning and Council policy
- Residential and Visual Amenity
- Roads
- Services, Drainage and the Environment
- Overcoming reasons for refusal
- Appropriate Assessment
- Environmental Impact Assessment

Zoning and Council Policy

The site is subject to zoning objective 'RES' - '*To protect and/or improve residential amenity*'. A residential dwelling is 'Permitted in Principle' under this zoning objective.

Residential and Visual Amenity

The proposal is a two-storey 2-bedroom detached house with one off street car parking space. The existing Site Layout Plan provided does not account for the electrical substation on the site; the applicant owns the site; however, removal of the substation should be stated on the notices as it is required works under this development.

External Development

The dwelling would be located directly opposite the entrance to the existing Montpelier View development. Space for one car would be provided to the north of the house, on a bend in the road. The external design of the dwelling is sympathetic to the style and character of the existing dwellings in the estate. A distance of 0.9m – 0.985m is provided between the proposed house and existing dwelling to the south. This would provide a narrow side access to the rear garden and results in the existing house losing external access to its rear garden.

At its nearest point, the house appears to be approximately 7.5m from the rear façade of the neighbouring house to the north. There is a strong likelihood of detrimental impact to sunlight/daylight for the neighbouring house to the north, owing to the orientation and proximity of the proposed house. At this close proximity, and given the height of the proposed structure, it would be appropriate to test the development to find the loss of skylight to the existing building. This issue could be addressed by **additional information**; however, it is considered unlikely that a detailed sunlight and daylight assessment of the proposed development would show that it would not lead to overshadowing and loss of amenity to the adjoining house. As there are other reasons for refusal, the issue of overshadowing should be included in a decision to **refuse permission**.

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

In the previous application on the site, a loss of privacy to the rear garden of No. 37A was also envisaged. The applicant has sought to overcome this by providing a north-facing window to the rear bedroom, with louvres. This may be acceptable, or otherwise translucent glazing could be provided to a height of 2m above the floor level (with clear glazing allowable above). This could be agreed by **condition** in the event of a grant of permission.

Internal Accommodation

The 2-bed house has been assessed against the 'Quality Housing for Sustainable Communities – Best Practice Guidelines' (2007), and the table in section 12.6.7 of the County Development Plan. The house meets the recommended minimum floor area standards for a 2-bed, 4-person, 2-storey house.

Private Open Space

The proposed development is measured to have a private open space of 53.4 sqm when the area to the side of the house is included in the calculation. This area is approx. 12m² in a triangular form, and it is considered that it can be included with reference to the following guidance in the County Development Plan (section 12.6.8):

- 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 same section of the County Development Plan allows for a relaxation of the 55m² standard for private open space for 2-bed houses, to a maximum of 10%, for corner / side garden developments:

- 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.

The proposed dwelling, taken in isolation, can be regarded as being marginally acceptable with regard to the open space provision for that dwelling.

Private Open Space of the Existing House

Notwithstanding that the plans submitted enclose only the site of the new dwelling in a red line boundary, the adjacent property of 36 Montpelier View is within a blue line and is a subject of this development, as it will be subdivided by this development. Properly speaking, the red line

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

boundary should enclose the entirety of the lands which have been enclosed within the blue line (indicating ownership/control).

The remaining private open space proposed to be provided for No. 36 is 29m². A note on the architect's drawing states the following:

"Note: the remaining area of garden space to no. 36 will be 29sqm which exceeds the minimum 25sqm area required to be retained in order to avail of exempted development rights and should not be considered as having an impact on the merits of the application as a whole. The owner is entitled to reduce their garden as indicated without engagement in the planning process."

The applicant and/or agent has been badly advised. The 25sqm standard is a qualifying detail for classes 1, 2(c) and 3 exempted developments (generally speaking but not limited to: rear extensions, solar panels, and tents). The proposed development does not fall under one of these classes and is not exempted development. The proposal is materially different from such developments as, notwithstanding the large procedural difference, the proposal provides for the permanent subdivision of the property and potential sale of a portion of the existing property into different ownership. The claim of entitlement is incorrect.

As per the County Development Plan, the Planning Authority can apply flexibility in the case of infill development; however, the proposal is severely deficient in this regard and this reason for refusal has not been overcome by the applicant. The proposed development would provide for substandard residential accommodation which would compromise the residential amenity afforded to existing and potential occupants of No. 36.

The deficiency in this regard is considerable and this is a strong indicator of **overdevelopment** on the site.

The application should be **refused**.

Roads

The Roads Department has reviewed the planning application and has recommended additional information be sought as follows:

- 1. The applicant is requested to submit as additional information in plan and elevation view drawings showing a revised layout in plan and elevation view on a detailed topographical background survey which shows the location of any existing street furniture, trees and services that are in the vicinity of the site.*

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

This report has been considered in the assessment of the application and in the event of an **additional information** request, it would be considered appropriate to request the revised site layout plan.

If permission is to be refused, however, the lack of mention of the electricity substation in planning notices, should be included in the decision to **refuse permission**.

Services, Drainage and the Environment

Water Services has reviewed the application and has requested **additional information** as follows:

1.1 There are no soil percolation test results, design calculations or dimensions submitted for the proposed soakaway. The applicant is required to submit a report showing site specific soil percolation test results and design calculations for the proposed soakaway in accordance with BRE Digest 365 – Soakaway Design.

1.2 The applicant is required to submit a revised drawing showing plan & cross-sectional views, dimensions, and location of proposed soakaway. Any proposed soakaway shall be located fully within the curtilage of the property and shall be:

- i) At least 5m from any building, public sewer, road boundary or structure.*
- ii) Generally, not within 3m of the boundary of the adjoining property.*
- iii) Not in such a position that the ground below foundations is likely to be adversely affected.*
- iv) 10m from any sewage treatment percolation area and from any watercourse / floodplain.*
- v) Where practical soakaways must include an overflow connection to the surface water drainage network.*

1.3

The applicant has not proposed any SuDS (Sustainable Drainage Systems) features for the proposed development. The applicant is required to submit a drawing in plan and cross sectional views showing proposed SuDS features for the development. Some examples of SuDs are listed below:

- i) Water butts.*
- ii) Permeable paving.*
- iii) Green roofs.*
- iv) Grasscrete.*
- v) Rain gardens.*
- vi) Or other such SuDS*

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

The above issues can be resolved by way of a **condition** or as items in a **request for additional information**.

The Irish Water report states no objection, subject to standard conditions.

Overcoming Reasons for Refusal

As per the above assessment, it is evident that the proposed development has not overcome the reason for refusal relating to Private Open Space. As a result of the development, the existing dwelling would have a significant and unacceptable shortfall and would not comply with Council Policy.

The revised proposal has overcome those issues relating to overlooking of the adjoining development contained in reason No. 2 of SDCC's previous decision; however, the development is still considered to be overdevelopment (also mentioned in reason No. 2).

The revised proposal has overcome the issue of floor space standards as raised in reason No. 3 of SDCC's previous decision, as the new proposal features a 2-bedroom rather than 3-bedroom house.

Though the issue of overlooking is considered to have been adequately addressed by the applicant, it is considered appropriate to refuse permission on the basis of overshadowing, given the minimum distance of 7.5m from the rear façade of No. 37A.

Screening for Appropriate Assessment

Having regard to the scale and nature of the development, connection to public services and the distance from Natura 2000 sites, it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Screening for Environmental Impact Assessment

Having regard to the modest nature of the proposed development, and the distance of the site from nearby sensitive receptors, 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.

Conclusion

Having regard to the provisions of the South Dublin County Council Development Plan 2022 - 2028, and the design and scale of the proposed development, it is considered that the proposed development would compromise the residential amenity of No. 36, would risk overshadowing

Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

and loss of residential amenity to No. 37A, and represents overdevelopment on the site. It is also considered to be improper that the removal of a substation on the site should not be included in the planning notices and description of development, nor represented in the drawings supplied.

The proposed development would thus be contrary to the relevant policies and objectives in chapters 6 and 12 of the South Dublin County Council Development Plan 2022 – 2028 and would be seriously injurious to the residential amenities of the existing and neighbouring properties and would therefore be contrary to the 'RES' land-use zoning objective and the proper planning and sustainable development of the area.

Recommendation

I recommend that a decision to Refuse Permission be made under the Planning & Development Act, 2000 (as amended) for the reasons set out in the Schedule hereto: -

SCHEDULE

REASON(S)

1. Notwithstanding that the plans submitted enclose only the site of the new dwelling in a red line boundary, the entire property of No. 36 Montpelier View is outlined in blue line and is a subject of this development, as that property will be subdivided by this development. Notwithstanding that the applicant has made reference to a 25sqm qualifying limit that exists for classes of exempted development, the proposed development is not an exempted development, does not fall under one of these classes, and would result in the permanent subdivision of No. 36 and provide for the sale of the proposed dwelling into separate ownership. For the existing dwelling, the proposed rear garden of 29sqm is a major shortfall when compared to the standard of 60sqm provided for in the South Dublin County Council Development Plan 2022 - 2028, and outside of the 10% allowance for flexibility also noted in the Plan. The proposed development constitutes overdevelopment and would result in substandard residential accommodation which would compromise and be seriously injurious to the residential amenity afforded to existing and potential occupants of No. 36, and would therefore be contrary to the 'RES' land-use zoning objective, and Policy H13 'Residential Consolidation' of the County Development Plan, and would be contrary to the proper planning and sustainable development of the area.
2. The applicant has not shown that the proposed dwelling would avoid overshadowing and loss of residential amenity at No. 37A by virtue of its close proximity of 7.5m (minimum) to the south of that property, and that the development would not therefore be contrary to Policy H11 of the South Dublin County Council Development Plan 2022 - 2028. Thus the proposed development would seriously injure the amenities of property in the vicinity.

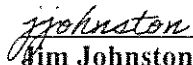
Comhairle Chontae Atha Cliath Theas

PR/1030/22

Record of Executive Business and Chief Executive's Order

REG. REF. SD22A/0276

LOCATION: Vacant garden plot site adjacent to 36 Montpelier View, Dublin 24



Jim Johnston,
Senior Executive Planner

ORDER: A decision pursuant to Section 34(1) of the Planning & Development Act 2000 (as amended) to Refuse Permission for the above proposal for the reasons set out above is hereby made.

Date:

10/8/22



Eoin Burke, Senior Planner