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Wednesday 23 November 2022

Planning Objection & Submission on Behalf of:
William & Anne McSweeney
37 Ardeevin Avenue, Lucan, Co. Dublin

Development Description:

Planning application for replacement of previously approved detached three storey 5-bedroom dwelling (295 sq.m) with 2 semi-detached three storey 4-bedroom dwellings (150 sq.m each); The house being replaced was previously granted planning permission by An Bord Pleanala under ABP-304659-19 (SDCC Ref. SD18A/0310); The application also seeks the modifications to the car parking and associated site works to facilitate the revised house types.

Applicants:

Phoenix Croft Limited
South Dublin Co. Co. File no. SD22A/0396

Dear Sir or Madam,

We refer to the above planning application SD22A/0396 and on behalf of our clients William & Anne McSweeney wish to submit the observations and submission below and ask that these be taken into consideration by the Local Authority when determining the application. We enclose herewith a payment in the sum of €20.00 being the prescribed fee for this observation.

1.0 Introduction:

Firstly, we note that our clients do not object in principle to the development generally on the adjoining site. In fact they wish it to be known that they welcome the principle of the redevelopment of the existing under utilized zoned and serviced site provided that it is designed and implemented in an appropriate manner. They realise and appreciate that the redevelopment of these lands into a well designed quality development is necessary and indeed worthwhile, but not at the expense of the existing amenities and privacy of the existing residences immediately adjoining the proposed development. Our clients do have some real, material and significant concerns relating to specific aspects of the development and its direct impact on their property, which we set out below.

2.0 The Proposed Development:

As outlined in the public notices, the proposed development comprises:

“Planning application for replacement of previously approved detached three storey 5-bedroom dwelling (295 sq.m) with 2 semi-detached three storey 4-bedroom dwellings (150 sq.m each); The house being replaced was previously granted planning permission by An Bord Pleanála under ABP-304659-19 (SDCC Ref. SD18A/0310); The application also seeks the modifications to the car parking and associated site works to facilitate the revised house types”

The development is an amendment and intensification of the existing development SD18A/0310 with the increase in the number of units proposed.

Our clients have been living in No. 37 Ardeevin, Lucan since September 1971, and purchased their dwelling house from new (it was newly built), and have been living there constantly since then. They have raised their family there and it has always been their home, and are the only people who have lived there. They are concerned with certain and specific aspects of the development now proposed by the current land owners and how they impact on their property, and that these concerns have not been adequately taken into consideration by South Dublin County Council in deciding to grant permission.

At this stage the appellants, who are now quite elderly, have for a considerable time enjoyed a significant amount of undeveloped open space, which represented (and still does) an attractive, quiet and visually appealing amenity with no overlooking, over shadowing, inappropriate visual massing or scale immediately adjoining them. It is clear that the proposed development will result in a deterioration of this previous amenity, and it is contended that the appropriate steps now are to carefully and properly manage the new development to ensure that this loss is mitigated.

3.0 Observations & Concerns:

We set out below the observations and concerns as raised by our clients as follows:

- Impact of the Development on our client's property
- Traffic impact of proposed development
- Other relevant considerations
 - The correct location of the legal boundary to the east of the site
 - Validity of the application & correct Owners of the Lands

3.1 Impact of the Development on our client's property:

The addition of another dwelling house will intensify the development and will result in an increase in possible nuisance arising from the development, particular taking into consideration the location of the additional dwelling directly opposite our clients house. This will include additional overlooking from the extra dwelling and will further restrict already restricted traffic movement in front of our client's property.

3.2 Traffic impact of proposed development:

The area immediately outside of our clients property currently suffers from traffic restrictions due to restrictive turning circles and on street car parking, and this development, with the inclusion of an additional dwelling and associated parking, with no remedial measures, will significantly increase this and add to the problem, with no corresponding improvements. Furthermore, the development will generate additional traffic movement entering and exiting the site, in very close proximity to the adjoining properties and especially our clients property. This will result in a traffic hazard and will impact negatively on our clients property.

3.5 Other relevant considerations

3.5.1 The correct location of the legal boundary to the east of the lands adjoining the site.

The appellants lands abut the adjoining development along the boundary to the south east of the appellants lands for a length of approximately 45 meters. This existing boundary comprises some hedge planting and ditches. The original development proposed that 3 no. new 3 storey dwellings back onto this boundary with the rear gardens of houses no. 23, 24 & 25 backing onto the boundary. It is the strongest contention of the appellants that the location of the boundary as drawn in the drawings forming the basis of the planning application is **incorrect and misrepresents the actual situation on the ground**, and that in fact the actual boundary is some distance into the proposed site. The discrepancy is in the order of some 3 meters along this south eastern boundary, which has a material impact on the site layout now proposed. The area in question forms part of the hedging and associated drains and ditches at the boundary, and the appellants, as stated, have been in constant possession of these lands, and have maintained, and landscaped same throughout their occupancy of their home. As with the nature of older properties, and in particular the old deed maps pertaining to same, the exact legal boundaries are not always clear, and it is the strongest contention of the appellants that their boundary extends further south east than that is shown on the applicants site plans. This is evidenced by both the fact that the appellants have had uninterrupted & exclusive use of same and also by the behaviours of the previous owners of the adjoining lands, which clearly demonstrate the clear and correct understanding of where the actual boundary is located.

To be clear, the appellants, since 1971 have had, and continue to have continued and uninterrupted exclusive use of this area of land abutting the development site, and this was reflected and recorded in previous agreements with the then owners of same lands.

The Planning Authority will be aware that our clients had previously made significant representations to both the Local Authority and to An Bord Pleanála on this matter under the previous planning file SD18A/0310 and subsequent Appeal. It is clear that there is a material issue with the location of the boundary as shown on the applicants plans. Our clients are not asking the Local Authority to rule on or determine any legal claim arising from this, as this is a Civil matter, and which is being taken further by our clients. However what is being asked of the Planning Authority, when determining this application, is to note that there is an issue with the boundary location as indicated, that this issue is material, and impacts on both the development and the appellants site, and that the site plan and ownership indicated by the applicants, is incorrect and misleading, and in our opinion, renders the planning application invalid.

3.5.1 Validity of the application & correct Owners of the Lands

We note that as indicated in Sections 5 & 6 of the Application form submitted as part of the planning application that the applicants are listed as Phoenix Croft Limited with Directors listed as Brendan & Carol Gallagher. Our clients have advised us that they are of the clear understanding that the ownership has or is being transferred to another Legal Entity, as evidenced by an alert received from the Property Registration Authority of Ireland in connection with a change of ownership of the property (or parts of the property). In addition our clients have been approached by another party indicating that they are the new owners. Furthermore, recent compliance submissions made in connection with the original application SD18A/0310, have been made by another party not listed in this application.

It is considered that this is a material consideration on the application, and that the ownership information as supplied has either been incorrectly completed in error or has been completed intentionally. Either way, it appears to be incorrect, thus rendering the application invalid.

We ask the Planning Authority to seek clarification from the applicants as to who the actual Owners and Applicants of the site are.

Our clients are concerned, taking the above into consideration combined with the questions over the boundary to the east that a valid planning application has not been made as firstly, the areas indicated on the drawings as being owned by the applicants are incorrect and secondly that the applicants as stated may not in fact be the actual applicants, in contradiction with the requirements of the 2001 Planning & Development Regulations (as amended).

4.0 Summary:

In conclusion, our clients, while not objecting to the principle of the development of the site, have a number of legitimate & serious concerns as detailed above and asks the Planning Authority to take all of these into consideration when determining the application.

In addition, there is a material question and concern as to the validity and legality of the application as submitted.

We trust that this is in order and we look forward to the Planning Authority taking these concerns, observations, and comments into consideration, when determining the development. In the meantime, should you have any queries or require any further information please do not hesitate to contact us directly.



Pat Kerr, Architect, Dip.Con.Law B.Arch.Sc. FRIAI MCIARB MIDI
Patrick M. Kerr Architecture

Encl. Payment of €20.00

Patrick M Kerr
39A, Maynooth Road
Celbridge
Co. Kildare

(re - William and Anne McSweeney)

Date: 24-Nov-2022

Dear Sir/Madam,

Register Ref: SD22A/0396
Development: Replacement of previously approved detached three storey 5-bedroom dwelling (295 sq.m) with 2 semi-detached three storey 4-bedroom dwellings (150 sq.m each); The house being replaced was previously granted planning permission by An Bord Pleanála under ABP-304659-19 (SDCC Ref. SD18A/0310); The application also seeks the modifications to the car parking and associated site works to facilitate the revised house types.
Location: Ardeevin Manor, Ardeevin Avenue, Lucan, Co. Dublin
Applicant: Phoenix Croft Limited
Application Type: Permission
Date Rec'd: 20-Oct-2022

I wish to acknowledge receipt of your submission in connection with the above planning application. The appropriate fee of €20.00 has been paid and your submission is in accordance with the appropriate provisions of the Planning and Development Regulations 2001(as amended). The contents of your submission will be brought to the attention of the Planning Officer during the course of consideration of this application.

This is an important document. You will be required to produce this document to An Bord Pleanála if you wish to appeal the decision of the Council when it is made. You will be informed of the decision in due course. Please be advised that all current applications are available for inspection at the public counter and on the Council's Website, www.sdblincoco.ie.

You may wish to avail of the Planning Departments email notification system on our website. When in the **Planning Applications** part of the Council website, www.sdblincoco.ie, and when viewing an application on which a decision has not been made, you can input your email address into the box named "**Notify me of changes**" and click on "**Subscribe**". You should automatically receive an email notification when the decision is made. Please ensure that you submit a valid email address.

Please note: If you make a submission in respect of a planning application, the Council is obliged to make that document publicly available for inspection as soon as possible after receipt. Submissions are made available on the planning file at the Planning Department's public counter and with the exception of those of a personal nature, are also published on the Council's website along with the full contents of a planning application.

Yours faithfully,

M. Furney
for **Senior Planner**