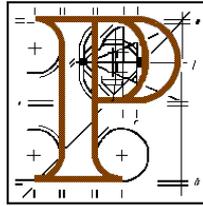


An Bord Pleanála



Inspector's Report

PL15.246442

DEVELOPMENT:-

2 storey dwelling in 1.5 storey style including site development works at Sandymount Blackrock, Dundalk, County Louth.

PLANNING APPLICATION

Planning Authority: Louth County Council
Planning Authority Reg. No: 15/541
Applicant: Neil Osborne
Application Type: Permission
Planning Authority Decision: Grant

APPEAL

Appellant: Bronagh Clarke and Others
Types of Appeal: 3rd Party -v- Grant
Observers: None
Date of Site Inspection: 14th June, 2016.

INSPECTOR: Paul Caprani

1.0 INTRODUCTION

PL15.246442 relates to a third party appeal against the decision of Louth County Council to issue notification to grant planning permission for a dwellinghouse and associated site development works in Blackrock, Dundalk, County Louth. The grounds of appeal argue that the proposal is premature pending upgrading works to the public lane and that the lane is not suitable to accommodate construction traffic associated with the development. Concerns are also expressed in relation to the proposed design of the dwelling.

2.0 SITE LOCATION AND DESCRIPTION

The appeal site is located in the northern environs of the seaside village of Blackrock, a suburb located south-east of Dundalk. The site is located on a narrow laneway which serves a number of dwellings along its alignment. As indicated in the grounds of appeal the laneway is currently poorly surfaced and accommodates intermittent footpaths along its alignment. The lane does benefit from public lighting. The laneway runs in a north-south direction to the immediate east of the R172, the main road that runs northwards out of Blackrock. The laneway incorporates a variety of widths including at pinch point to the immediate south of the subject site. The laneway, referred to in the drawings as the 'new line' runs in a north-south direction and terminates in a cul de sac a short distance south of the subject site. A pedestrian laneway continues southwards from the cul-de-sac and links up with the Rock Road to the south. The New Line runs northwards from the subject site before turning eastwards linking up with the R172 to the north-east of the subject site.

The site in question is located on the eastern side of the New Line and is rectangular in shape. A residential cul-de-sac is located to the south of the site, Sandymount Drive. This cul-de-sac serves approximately 14 houses. A narrow unpaved laneway runs along the southern boundary of the site linking Sandymount Drive to the New Line. The subject site faces onto a number of dwellinghouses including a line of 5 terraced dwellings located on the western side of new line. The eastern boundary of the site adjoins a rear garden with a large detached house facing onto the R172 (also known as the Sandymount Road). The northern boundary of the site also adjoins the rear garden of a large dwellinghouse which faces eastwards onto the R172. The site itself is currently overgrown and vacant with the exception of a derelict shed

structure which is located adjacent to the southern boundary of the site. The site occupies an area of 320 square metres and is approximately 25 metres in length and 12.6 metres in depth.

A pedestrian laneway provides access to the Rock Road further south. Vehicular access to the site can only be obtained from the R172 to the north of the site as a cul-de-sac is located approximately 25 metres to the south of the subject site.

3.0 PROPOSED DEVELOPMENT

Planning permission is sought for the construction of a two-storey four-bedroom dwelling rising to a ridge height of 7.53 metres (reduced originally from 8.16 metres). The dwelling is to incorporate two bay windows at ground and first floor level on either side of the front entrance. The dwelling is to incorporate a pitched slate roof with a nap plaster finish. The rear garden is just less than 10.4 metres in depth while the front garden is approximately 5.8 metres in depth. The dwelling is to connect to the public mains water supply and to the public sewer.

4.0 PLANNING AUTHORITY'S ASSESSMENT

4.1 Planning Authority's Initial Assessment

A report from the Infrastructure Office requested the applicant submit a revised layout showing visibility at the entrance in accordance with DMURS. It is noted that access to the proposed development necessitates the use of a privately owned access road off a public road. The applicant is requested to submit written proof of all necessary rights and permissions from third party landowners have been obtained in respect of the provision of the access. Further information is requested in respect of surface water drainage.

A report from Irish Water states that there is no objection subject to conditions.

A number of observations were submitted objecting to the proposed development. The contents of these observations have been read and noted.

4.2 Additional Information Request

The planner's report dated 29th September, 2015 considers the proposed residential development on the site in question is acceptable in principle but expresses a number of concerns in respect to the overall design, bulk and layout of the dwelling. The Planning Authority recommended additional information in relation to the following:

- Revised designs reducing the overall mass and bulk of the proposed dwelling.
- Submission of a cross section showing finished floor levels and ridge levels of the dwellinghouse in the context of adjoining dwellings.
- Full details of all trees including mature trees along the southern boundary of the site which are to be retained.
- Submission of an application for exemption under the provisions of Part V.
- Submission of a revised layout showing visibility at the entrance in accordance with DMURS.
- Submission of written proof that all necessary rights and permissions from third party landowners have been obtained along the access road.
- Further clarification in respect of surface water disposal including surface water run-off from the site entering the public road.
- Revised public notices in respect of the further information request.

4.3 Further Submission on behalf of Applicant

Further information was submitted on 25th February, 2016. It is briefly summarised below.

In relation to the overall design and size of the dwelling, the house has been reduced from 8.16 metres in height to 7.53 metres in height. Likewise the width of the house has been reduced from 10.5 metres to 9.9 metres and the depth of the house from 9.8 to 8 metres.

A longitudinal section has been submitted showing floor and ridge levels of the proposed dwellings.

The existing mature trees located along the southern boundary of the site are to be retained.

An application for exemption under the provisions of Part V has been submitted to the Planning Authority.

The revised layout plan shows adequate sightlines in accordance with the requirements of DMURS.

In respect of access, the sole access to the subject site from the main road is by way of an established right of way. The subject site has enjoyed the use of this right of way without dispute or interruption for numerous years and a letter from a solicitor confirms this.

Surface water shall be directed to soakaways design for a 10 year return period in accordance with BRE 365 calculations regarding same are attached. Also attached are permeability tests and soakaway designs for a 10 year return period. The overflow pipe shall limit the discharge to the public storm sewer to less than pre-development rates by means of a hydro-brake and an "ACO" type gulley shall prevent run-off from the site to the public road and shall be directed towards a localised soakaway.

A further report from the Infrastructure Office recommends that planning permission be granted subject to a number of conditions in respect of roads and traffic and surface water drainage.

4.4 Further Assessment and Decision by Planning Authority

The planner's report notes that the total floor area of the dwelling has been reduced from 188 square metres to 144 square metres and the proposed revision is deemed to be acceptable. The further information submitted in respect of the retention of mature trees and the further details with regard to the finished floor levels and ridge heights are also deemed to be acceptable in terms of protecting adjoining amenity. It is considered therefore that the overall development is deemed to be acceptable and it is recommended that planning permission be granted. In its decision dated 16th March, 2016 Louth County Council granted planning permission for the proposed development subject to 8 conditions.

5.0 PLANNING HISTORY

There are no details of any planning applications contained on file.

The initial planner's report makes references to two applications from 1998 and from 2006. It is not altogether clear as to the nature of the original application under Reg. Ref. 98/40 which was granted by Louth County Council. The latter application Reg. Ref. 06/96 related to a one and a half storey dwellinghouse. It appears that Louth County Council granted planning permission for this development. However I reiterate that no details are contained on file.

6.0 GROUNDS OF APPEAL

The decision of Louth County Council to issue notification to grant planning permission for the proposed development was appealed by a number of residents in the vicinity of the subject site. The grounds of appeal are outlined below. While it is acknowledged that the site is zoned for residential use in the Dundalk and Environs Development Plan, and there is no objection in principle to develop the subject site for residential use, concerns are expressed that the proposed development will be premature pending the upgrading of the public laneway that serves the development. The restricted width and curvature of the lane means that it is not easily accessible by refuse trucks or other vehicles. It is also considered that the surface of the laneway is in an extremely poor condition. The laneway is not properly surfaced, is uneven and is prone to frequent flooding. Photographs are attached indicating the condition of the road. It is also the appellants' understanding that the Council have no plans to carry out any upgrade or remedial works to the laneway in the short to medium term. It is inevitable that the condition of the road will further deteriorate and deteriorate more rapidly as a result of heavy vehicles and machinery using the road during the construction period. The laneway in its current state is simply not capable of accommodating construction traffic.

It is also clear from Section 8 of the supplementary application form submitted with the application, that the applicant intends to let the dwellinghouse post construction. It is likely therefore that the two car parking spaces to be provided on-site would be insufficient to cater for the needs of the residents. This would lead to on-street parking.

The laneway also provides a pedestrian track shortcut to Blackrock Village to the south of the site. The proposed development, particularly during the construction phase, would endanger public safety by reason of a traffic hazard.

It is also argued that the height and mass of the dwelling is inconsistent with the existing pattern of development in the area. The changes made by the applicant in response to the Planning Authority's request for information is 'negligible and tokenistic'. As such the proposed development is contrary to Section 6.6.6 and 6.6.7 of the Dundalk and Environs Development Plan (2009). It was suggested that the proposed development merits a more contextually sensitive and imaginative design given its visually prominent and sensitive location. The height of the dwelling therefore should be restricted to single storey/dormer and by omitting the two projecting gable features and replacing them with a more simple elevational treatment that makes reference to the existing vernacular cottage located opposite the site.

7.0 APPEAL RESPONSES

7.1 Applicant's Response to the Grounds of Appeal

A response was received on behalf of the applicant by Joseph Osborne Consulting Engineer.

It is stated that the subject site is the last remaining vacant site on the laneway. The proposed development would therefore be the last possible residential development to take place within the cul-de-sac. The provision of an additional dwelling would have a negligible impact in terms of the intensification of road usage. It is noted that the existing dwellings are already served by refuse trucks and an additional dwelling will not have a material impact regarding same. Furthermore reference is made to Condition No. 7 of the Local Authority's grant of planning permission which requires the applicant/developer to be responsible for the full cost of repair in respect of any damage caused to the adjoining public roadway or footpath. The construction of a single dwellinghouse would not necessitate the use of any heavy plant but would rather rely on lighter machinery such as diggers etc.

The proposed development is a modest 144 square metre four bedroom family home and car parking spaces are being provided in accordance with the development plan.

No flooding occurs on the road. The photographs indicate the pooling of water as a result of an uneven road surface. This is a matter for the Local Authority as the road is a public road. The proposed development would also result in less surface water run-off from the site as soakaways and channels would be constructed to collect and dispose of surface water within the site.

The various houses on the laneway are an eclectic mix with no strict adherence to any particular architectural style. It is further noted that there are a number of two-storey dwellinghouses in the vicinity and these are indicated in photographs attached.

The end dwellings in the terrace of houses directly opposite the site incorporate a gable front to the style (see Photograph No. 6 in the Appeal Response). The gable type feature is therefore appropriate for the dwelling in question. It is argued that the proposed dwelling positively addresses the laneway and enhances the local character of the area.

7.2 Planning Authority's Response to the Grounds of Appeal

The Planning Authority note that the application site is located on lands which are zoned as residential in the Dundalk and Environs Development Plan. Issues relating to design, finished floor levels, landscaping as well as roads and drainage issues were all raised in the Planning Authority's request for further information in the course of determining the application. Upon the assessment of this further information, it was considered having regard to the relevant policies set out in the development plan, that the proposed development was acceptable. The comments in relation to the poor condition of the laneway are acknowledged however the application was referred to the Infrastructure Department for assessment and there was no objection to the development of an additional dwelling along the laneway. An Bord Pleanála are therefore requested to uphold the decision of the Planning Authority and grant planning permission for the proposed development.

8.0 DEVELOPMENT PLAN PROVISION

The Dundalk and Environs Development Plan 2009-2015 is still the operative Plan for the subject site and its surroundings. The site is zoned Residential 1 where the zoning objective to "*protect and improve*

existing residential amenities and to provide for infill and new residential developments”.

In relation to infill/backland development, Section 6.6.7 of the development plan states the following: *“Infill development is small scale development located in gaps between existing buildings. Backland development is small scale development located to the rear of existing buildings. The following guidance is applicable to out of town residential sites. Development on these sites should match existing and surrounding development in terms of design, scale and height and the building line should be in keeping with the existing development and should not be detrimental to local existing residential amenities in the area”.*

9.0 PLANNING ASSESSMENT

I have read the entire contents of the file, visited the site in question and I consider that the following issues are of most importance in determining the application and appeal before the Board.

- Principle of Development
- Condition of the Laneway Serving the Site
- Dwelling Design
- Flooding and Surface Water Drainage Issues

9.1 Principle of Development

The subject site is zoned for residential development and it is clear from Policy 6.6.7 of the Operative Development Plan that infill/backland development is acceptable provided it is in keeping with existing development and does not impact on existing residential amenities in the area. I further note that the grounds of appeal do not object to the principle of developing the site for residential purposes, but express concerns in respect of the current state of the laneway serving the development, the design of the dwellinghouse and other ancillary issues. Therefore having regard to the zoning objective of the site and overall policy objective which seeks to permit infill/backland development subject to qualitative safeguards, I consider the principle of developing of the site in question for a residential dwelling to be acceptable in principle. Furthermore I consider that the Board can

restrict its deliberations to the main concerns and issues highlighted in the grounds of appeal.

9.2 Condition of the Laneway Serving the Site

I have inspected the site in question and I would generally agree with the concerns raised in the grounds of appeal regarding the poor condition of the road surface in the vicinity of the site. While the proposed road surface is poor and somewhat substandard with shallow potholes throughout the lane. Also the dimensions of the laneway to the north of the subject site are restricted at some pinch-points. Notwithstanding this, the existing laneway serves 13 dwellinghouses and that the provision of one additional dwellinghouse would not have a substantial or material impact on the condition of a roadway particularly during the operational phase of the development. The Board will note that the laneway currently provides access to existing dwellings. The same laneway (incorporating the same pinch points) was therefore deemed acceptable to serve these existing houses. It is also apparent that lands along the laneway have been developed in more recent times which includes the construction of five terraced townhouses directly opposite the site and therefore a precedent has been set in respect of developing lands served by the laneway. Any width restrictions associated with the New Line did not merit a reason for refusal in respect of the five townhouses developed on the western side of the laneway and therefore I do not consider it appropriate that permission would be refused for a single dwellinghouse for the same reason.

With regard to the road surface, the provision of an additional dwellinghouse over and above the dwellings already served along the laneway would not in my view give rise to any material impact in terms of exacerbating road surface deterioration. Furthermore any adverse impact on the surface quality of the laneway should be balanced against the need to utilise brownfield sites which are serviced in terms of water supply and drainage arrangements. The development of a brownfield site within a service area represents a sustainable and efficient use of the lands in question and this is reflected in the zoning objective as it relates to the site.

With regard to the issue of construction traffic, any impact in terms of construction traffic would be temporary. Furthermore the development of a single dwellinghouse should not give rise to any significant and large scale HGV movements to and from the site. Finally in relation to this point, Condition No. 7 of the Planning Authority's notification to grant

planning permission requires the applicant to make good any damage or repairs required to the road as a result of construction activities. I recommend that the Board attach a similar condition if it is minded to grant planning permission in order to allay the appellants' concerns in this regard.

In conclusion therefore I do not consider that the proposed development should be refused on the grounds that any development on the site in question be deemed premature pending the upgrading of the laneway serving the site.

9.3 Dwelling Design

The Planning Authority had concerns in relation to the overall mass and scale of the original proposal on site. On foot of this, the applicant was requested by way of additional information to submit revised drawings reducing the overall gross floor area of the house by 44 square metres (from 188 square metres to 144 square metres) and also reduced the height of the dwellinghouse by approximately half a metre.

The grounds of appeal suggest that the subject site would be better suited to accommodate a single storey dwelling. The site in question is modest in size approximately 320 square metres. A compromise therefore has to be reached in terms of providing suitable living accommodation on the subject site and also ensuring that amenity of future occupants in terms of private open space provision and also the amenity of adjoining residents is protected by providing sufficient separation distances between dwellings. I consider that the provision of a single storey dwelling on the site in question would necessitate a larger building footprint which would compromise private open space provision and off-street parking arrangements etc. The applicant in his response to the grounds of appeal has adequately demonstrated that there are an array of house types and building heights in terms of dwellings in the vicinity and many of these dwellings are in fact two-storey in nature. Therefore the provision of a two-storey dwellinghouse on the subject site is in my opinion fully in keeping with the surrounding pattern of development and character of the area. I am satisfied that the overall height and mass of the proposed dwellinghouse is appropriate in the context of the surrounding dwellinghouses.

Furthermore I am satisfied that the overall design approach is appropriate for the site in question. Contrary to what is suggested in the grounds of appeal, I do not consider that the subject site is particularly

prominent or visually sensitive. The site constitutes a backland development site which will not be visible from anywhere other than vantage points along the laneway in the vicinity of the site. I am therefore satisfied that the proposed development is acceptable and will not be visually incongruous in the context of the surrounding area. This in my view is adequately demonstrated in the sectional drawings submitted with the additional information request.

9.4 Flooding and Surface Water Drainage Issues

No evidence has been provided to suggest that the subject site is prone to flooding. The OPW flood maps do not indicate any incidents of flooding either on an AEP 100 year event or a more extreme event. I would agree with the applicant in his response to the grounds of appeal that the uneven and shallow potholed surface associated with the laneway results in pluvial ponding during high rainfall events. The development of the subject site with appropriate surface water drainage and attenuation will reduce the potential for such pluvial ponding along the laneway. It is proposed to incorporate drainage to prevent any run-off from the site to the public road and all drainage on-site will be directed to a localised soakaway. I am therefore satisfied that the proposed development will not in any way exacerbate or accentuate surface water flooding on the laneway.

10.0 CONCLUSIONS AND RECOMMENDATIONS

Arising from my assessment above therefore I consider that the decision of the Planning Authority should be upheld in this instance as the proposed development is fully in accordance with the zoning objective relating to the site and that the provision of an additional dwellinghouse will not accentuate the deterioration of the local laneway to any appreciable extent nor will the proposed development give rise to any adverse residential amenity impacts. Furthermore I consider the proposed development to be acceptable in terms of height, scale and design.

11.0 Appropriate Assessment

The nearest designated Natura sites are the Dundalk Bay SAC (Site Code: 000455 and the Dundalk Bay SPA (Site Code: 004026). At its closest point the site is located approximately 140 metres to the west of these two designated Natura 2000 sites. However there are no

watercourses or streams in the vicinity of the subject site which could potentially provide a pathway between the subject site and the designated Natura 2000 sites. There is no scope therefore to provide any potential pathways in terms of contamination arising from the development, particularly during the construction phase which could significantly affect the Natura 2000 sites in question. Therefore having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to 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 and projects on a European site.

11.0 DECISION

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the subject site it is considered that the proposed development would, subject to conditions set out below would not seriously injure the residential amenities of the area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the information received by the planning authority on the 25th day of February 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of materials, colours and textures of all external finishes to the proposed dwelling shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Roof tiles/slates and ridge tiles shall be blue/black in colour.

Reason: In the interest of visual amenity.

3. Landscape proposals and boundary treatment submitted on the site layout plan received by way of additional information on 25th February, 2016 shall be carried out in full in the first planting season following the occupation of the dwellinghouse or as otherwise agreed with the planning authority.

Reason: In the interest of residential amenity.

4. Site visibility lines at the entrance to the dwelling in a northerly direction along the laneway shall be agreed in writing with the planning authority prior to the commencement of development. No impediment to the visibility or the visibility splay shall be permitted.

Reason: In the interest of safety.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. Details of the proposed boundary treatment including boundary walls and fences shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of residential and visual amenity.

7. The developer shall make all necessary arrangements to obtain road opening licences from the planning authority for the construction of watermain pipelines, drainage pipelines and all other services in the public roads/footpaths. The developer shall abide by the conditions in the road opening licence.

Reason: In the interest of orderly development.

8. The applicant shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from construction works and shall even make good any such damage to the satisfaction of the planning authority or pay the planning authority the cost of making good any such damage.

Reason: In the interest of orderly development.

9. The developer shall pay to the planning authority a financial contribution of €5,018 (five thousand and eighteen euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Paul Caprani,
Senior Planning Inspector.**

June, 2016.

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