



An
Bord
Pleanála

Inspector's Report

29N.247620.

Development	Demolition of an existing garage / shed construction of 4 no. houses with new vehicular access, car parking and associated site works.
Location	Rear of 77 Pinewood Crescent, Glasnevin
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3644/16
Applicant	CNG Developments Ltd
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	CNG Developments Ltd
Observers	D Cassidy C Lynch P Kavanagh PG Lynn & J Bambrick P & AM Conkey P Martin B & P Sherry K Mulligan & B Webb-O'Maolagain J Davis P Christie B Coates & D Moher J Dunne
Date of Site Inspection	22/2/2017

2.0 Site Location and Description

- 2.1. The site is located at Pinewood Crescent, Glasnevin Dublin 11. The area is to the east of Finglas and to the north of Glasnevin Ave. The site is No. 77 Pinewood Crescent which is located on a sharp bend, and to the west of the road bounding No. 79 Pinewood Crescent to the south west and No 75 to the north east. To the north and north west the site abuts the rear garden of houses on Cuilenn Park and Willow Park Road.
- 2.2. The site is occupied by a semi-detached dwelling, at the eastern / road end which abuts the dwelling to the south west, and by a large garage, set well behind the dwelling. A driveway separates the site from the adjoining property to the north east where a second garage attached to the semi-detached dwelling on that site extends to the site boundary. The site is large and lozenge shaped, narrowest at the front. The lateral boundaries are splayed due to the corner location, at a curve of the road. At the rear there are two segments of boundary one along the north which separates the site from Cuilenn Park, and the other along the west where the site bounds Willow Park Road. The historic OS mapping indicates that these boundaries roughly correspond to the routes of former watercourses/rivers. The modern OS mapping indicates that they are also the approximate location of electoral division boundaries.
- 2.3. There is a very pronounced slope in the site from the front, roadside, to the rear; with a drop of about 1.5 to 2m. The site is surrounded by block walls. Small portions have fallen away and some portions have been increased in height. At a few locations there are tall evergreen trees on adjoining sites along the boundary. From within the site, the rear of houses can be seen in every direction, located at a distance from the site.
- 2.4. The site is given as 1472m².

3.0 Proposed Development

- 3.1. The proposed development comprises demolition of the existing garage / shed, construction of 4 no. houses with new vehicular access, car parking and associated

site works. The existing dwelling is not to be removed but will be provided with a new access and car parking spaces will be developed in the front garden. This is not included in the development description.

- 3.2. The existing side access to be developed as a driveway is 4.8m wide at the road edge and wider to the rear of the existing dwelling. A footpath is to be provided to the front of the proposed dwellings. Three of the proposed dwellings face SSE towards the public road and the rear of properties on Pinewood Crescent. These comprise a pair of semi-detached three storey dwellings, in which the third storey is a dormer; and a detached dwelling, slightly wider than a semi and otherwise of similar proportions. Between this group and the rear of the existing dwelling, a two storey dwelling, the second storey being a dormer, is to be located facing NE, with its rear wall close to the boundary of No. 79 Pinewood Crescent and with its private open space and parking areas to either side.
- 3.3. Foul wastewater from each of the dwellings is to be pumped, by individual pumps, via a shared 50mm diameter sewer to a standoff manhole near the public road and from there a new 150mm diameter sewer will convey the effluent by gravity to the existing 225mm diameter public sewer located approx. 25m away along the public road to the south (east of the road).
- 3.4. Surface water will be collected and attenuated on site and discharged to the public surface water sewer along the public road to the south (west of the road).

4.0 Planning Authority Decision

4.1. Decision

- 4.2. The planning authority decided to refuse planning permission for two reasons:

Having regard to the Z1 residential zoning as set out in development plan to the backland nature of the site and to the layout and scale of the proposed development and its proximity to existing residential development, it is considered that it would constitute overdevelopment of the site and would result in a development which impacts adversely on the existing amenities of residential development by reason of excessive overlooking, overshadowing and by reason of having an overbearing impact / appearance. It is considered

therefore that the proposed development would seriously injure the amenities of adjoining property and would depreciate the value of property in the vicinity. It is also considered that the development would set a precedent for similar over-scaled backland development in the area. The proposed development is therefore contrary to the proper planning and sustainable development in the area.

The applicant has not submitted a flood risk impact assessment for the proposed development per DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management published in November 2009 and the Dublin City Development Plan 2016 – 2022 Strategic Flood Risk Assessment (SFRA) Volume 7. The Planning Authority is consequently not satisfied that the development has been designed such that the risk of flooding to the development has been adequately addressed and that the proposals do not increase the risk of flooding to any adjacent or nearby area (over the risk of flooding from a greenfield site).

4.3. Planning Authority Reports

4.4. Planning Reports

4.5. CDP policies:

QH8 promoting density

QH22 QH23 promoting family accommodation

S 16.10.2 standards set out in S5.3 of Internal Space Provision contained in DEHLG Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities 2007. This section also states that a minimum standard of 10 sq m of private open space per bedspace will normally be applied.

S16.10.8 deals with backland development and S16.10.10 with infill housing.

4.6. There is a neighbourhood centre to the west on Sycamore Road, Popintree Park is to the north and there are bus routes along Glasnevin Ave. The area is characterised by mid to late 20th century semi-detached housing with long narrow back gardens.

4.7. Breeze block walls of varying heights and structures belonging to other properties form the boundaries. Tree on neighbouring properties no. 79 and no. 75.

- 4.8. The proposed 4 new dwellings – 1 two storey plus attic detached 4 bedroom dormer and 1 single storey plus attic detached 4 bedroom dormer, and 2 two storey plus attic semi-detached 4 bed dormer with new vehicular access car parking and associated site development. Three are to be located to the rear of the site facing towards the rear of no. 77 and one is to be located on the boundary with No. 79. The 4 bedroom units are 164 sqm (B1), 147 sq m (B2) and 130 sq m (A1), total bed spaces 24. Private open space ranges from 66 sq m to 97 sq m. Vehicular access from a proposed private driveway ranging in width from 6.1m to 4.8m at the junction with Pinewood Crescent.
- 4.9. This is backland development – the policy is to allow for comprehensive backland development where the opportunity exists. The development of individual backland plots can conflict with the established pattern and character of development in the area.
- 4.10. Assessment –
- 4.11. Backland development: can cause significant loss of amenity loss of privacy overlooking noise and loss of nature vegetation or landscape screening. By blocking access it can constitute piecemeal development and inhibit the development of a larger backland area. There may be a case for a more comprehensive development of adjacent backland sites along the road.
- 4.12. Density Overdevelopment - 33 units per ha. Not in keeping with the character and pattern of development of the area. A1 should be omitted due to proximity to no 79. B1 and B2 have an overbearing impact on no's 100 and 102 Willow Park Road due to proximity and height.
- 4.13. Design and height – described as dormers. B1 and B2 are not dormers but two storey houses rising to 9.4m with attic space and a dormer in the roof. Type A is 7.4m. Existing house types are mixed. Type C is 8.4m, two storey with attic space. There are terraced houses at Cuilenn and three storey at Popintree Crescent. As notices refer to dormers they should be required to re-advertise. They should be requested to submit revised drawings and proposals for dormer dwellings.
- 4.14. Housing standards – applicant has not demonstrated space provision / room sizes are compliant with Internal Space Provision contained in DEHLG Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining

Communities 2007, table 5.1 or S5.3 of development plan; they should provide a schedule of accommodation.

4.15. Residential Amenity

4.16. Overlooking – There would be oblique views of Willow Park Road and located close to the rear gardens. Dormer style dwellings should be submitted which would negate overlooking. Side windows are to have obscured glazing.

4.17. Overbearing Effect - A1 would have an overbearing impact on No. 79 Pinewood Crescent. House B1 and B2 would have an overbearing impact on No's 100 and 102 Willow Park Road. Moving the houses forward may lessen the impact.

4.18. Overshadowing – B1 and B2 would overshadow the morning rear gardens of property on Willow Park Road, in the middle of the day they would overshadow their own gardens, in the evening they would overshadow the rear garden of No. 75. Moving the houses forward would lessen the impact.

4.19. Vehicular Access/Parking – the access road is 4.8m wide at its narrowest at the entrance. The Roads and Traffic Planning Division note that the access road is not wide enough to accommodate a separate footpath but that a footpath is proposed in front of the dwellings. That having regard to the number of proposed dwellings and short distance of roadway from the public road, there is no objection to access road. Sightlines are acceptable. The proposal to provide a new vehicular access to serve the existing dwelling has been shown, but not included in the description of the development. An existing tree on the public footpath should be retained/protected and this could be conditioned. The 8 off street parking spaces proposed are acceptable. Emergency access can be accommodated.

4.20. Public Open Space – none proposed, a contribution in lieu would be acceptable.

4.21. Private Open Space – not all houses, including the existing house, have the 11m rear garden depths required. This should be required.

4.22. Boundary treatment – none indicated.

4.23. Drainage – Drainage Division is seeking additional information re. flood risk.

4.24. Other Technical Reports

- 4.25. Engineering Department - Drainage Division – further information. Due to the lack of adequate drainage information it is not possible to state that satisfactory drainage can be provided for this development. Applicant should consult Drainage Division prior to submission of revised plans to ensure all drainage issues are addressed.
- 4.26. A full site specific flood risk impact assessment which provides detailed information on identifying and proposing solutions to mitigate the potential risks from all sources of flood risk. Specifically, the concerns of residents in this area of pump failure, pluvial (surface water flood paths), fluvial (Wad River) and groundwater (water table levels) flood risks shall be addressed in the report. The exact location of the existing Wad River surface water culvert at the rear of the proposed development site should be identified to ensure its protection during construction works and to establish if a surface water connection is possible. Reference should be made to the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management published in November 2006. Flood risks from 100 - year storms shall be addressed with OPW recommended climate change factors applied. The developer shall confirm in writing to the Drainage Division that the development has been designed such that the risk of flooding to the development has been adequately addressed, and that the proposals do not increase the risk of flooding to any adjacent or nearby area (over the risk of flooding from a greenfield site).
- 4.27. Roads Streets and Traffic Department Road Planning Division – conditions.
- 4.28. Third Party Observations
- 4.29. Third party observations were received from Pauline Kavanagh, Christine Lynch, Yvonne Cassidy, Brid Coates and David Moher, Paddy Christie, Cllr Noeleen Reilly, Kevin Mulligan and Bairbre Webb O'Maolagain, Daniel Cassidy, Thomas Deegan, John Davis, Paul Conkey and Anne-Marie Conkey, Bridie Webb, Claire and Sean Ellis, Bernard & Patricia Sherry, Philip Webb, Margaret Walsh, Patricia Martin, and Beatrice Glynn and Joseph Bambrick. Issues raised include:
- Loss of privacy, impact on residential property.
 - Overshadowing overbearing. Site is elevated compared to property to north.

- Too close to boundary of Willow Park Road
- Out of character with the area, proposed dormer is really two storey, no boundary details
- Traffic hazard - dangerous bend, opposite St Michaels, new junction with narrow entrance, no footpath; area used by learner driver's on street parking, bin lorries and emergency vehicles would have difficulty accessing,
- Construction traffic plan required
- Underground stream running through lands causes flooding and the water table will be affected. R Wad causes flooding.
- Letter from Dublin Corporation to Alderman Noel Ahern TD in 1995 is attached to an observation. This refers to frequent flooding at the end of the gardens at Pinewood Crescent, in periods of heavy rain there is extensive ponding of water, up to two inches deep on the open space adjacent to the common boundary, as far as the writer could ascertain some of the back gardens appear to be at a lower level than the adjacent open space. The provision of approximately 400 metres of a land drain to remove excess surface water run off from the open space would exonerate the Corporation from any blame.
- Removal of trees has led to drainage issues.
- Tree cutting to facilitate development.
- Security compromised.
- Sewerage problems in vicinity, pumps may not be maintained.
- There are underground ESB lines near the site.
- Would affect bird life.
- Rats from construction.
- Light pollution from street lights.
- Description – no mention of new entrance to existing house.
- Two further houses may be built to the rear of No. 75.

- Applicant's claim that site was previously commercial is untrue.
- Similar development at 21 Pinewood Crescent was refused.

5.0 Planning History

5.1. No site history is given in the planning report and application form states that there is no planning history.

6.0 Policy Context

6.1. Development Plan

6.2. **The Dublin City Development Plan 2016-2022** (DCDP), is the operative plan.

6.3. Backland Development is referred to in 16.10.8 of the Dublin City Development Plan. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Backland Development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.

16.10.10 in general infill housing should comply with all relevant development plan standards.

16.10.2 deals with residential quality for houses and states that traditionally a separation of about 22m was sought between the rear of 2 storey dwellings, but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers.

6.4. **Natural Heritage Designations**

6.5. None relevant

7.0 **The Appeal**

7.1. **Grounds of Appeal**

7.2. An appeal on behalf of the first party against the decision to refuse permission was submitted by The House Architect's. the grounds include:

- The rear garden is large. The boundary extends c 24m beyond the natural block perimeter following the original alignment of the Wad stream which has now been culverted. The rear garden is lower than most of the land around the perimeter of the urban block – by 1.5-2m. The proposed ground level will be significantly lower than that of surrounding dwellings.
- Surrounding the site: Willow Park Road (two storey semi-detached) Pinewood Crescent (two storey semi-detached), Cuilenn Park (2 storey plus attic level), and Poppintree Crescent (three storey terraced and four storey apartments).
- The urban block is oriented north/south, the optimum location for infill development is in the centre of the site, maximising distances from opposing windows and private open space.
- The three main infill buildings B1 and B2 in the centre of the site ensures that there are no windows overlooking rear gardens. Separation distances 54m north and 30m south. B1 is separated by 20+ from the nearest house to the west. The side elevation of B2 is over 25m from the nearest house to the east.
- Windows of B1 & B2 would be almost 31 m from rear facing upper floor windows of nearest dwelling to south and over 52m from nearest directly opposing upper floor window to north. A1's nearest opposing upper floor windows are over 49m distant to north and over 30m distant to north-west.
- There are no transparent windows on side elevations separated by less than 22m from opposing windows. Circulation areas and bathrooms are proposed close to existing boundaries.

- Windows of new houses are directed away from rear elevations of Pinewood Crescent.
- 2 on-site parking spaces are provided and private open space from 66 sq m to 97 sq m,
- The dwelling nearest the rear of No. 79 is an asymmetric dormer bungalow, lower eaves level of 2.4m adjacent to the existing boundary wall; average set-back 2.3m from the wall, minimum 1.3m; 15m from the rear elevation of the existing house minimising any overbearing impact; private open space 86 sq m, a rear garden of 84 sq m is retained for the existing three-bedroom house. A1 would have no more overbearing impact on the garden of No. 79 than an exempted extension. B1 & B2 are adjacent to dwellings with 21m long gardens with separation distances to the gable of B1 of 20-25m,
- The site layout creates enclosure and a sense of place and screens back gardens of existing dwellings.
- Development accords with DCDP – Z1 zoning, policy QH8, Section 16.10.8 and 16.10.10.
- Density (0.47) is well within target 0.5 – 2.
- Design in keeping with surrounding area.
- Ground level difference has not been adequately considered in mitigation of any potential overbearing.
- Layout and site configuration minimises risk of overlooking, overbearing and overshadowing to the extent that is well within DCDP standards.
- There is no possibility for negative precedent as no similar large backland sites exist.
- Historical flood risk on the site has been alleviated by the culverting of the Wad stream in the 1990s as part of the Ballymun Regeneration Infrastructure works and no longer poses an exceptional risk.
- The word dormer refers to the attic window in the roofline. Dormers were used to reduce the visual impact of the third floor accommodation and to mimic the established pattern of 2 & 3 storey dwellings in the block. The ridge height of

the higher blocks will be 100mm lower than the ridges of the houses in Pinewood Crescent.

- A schedule of accommodation is attached to the grounds, which demonstrates compliance with Section 5.3 of the Guidelines, as required in DCDP.
- The potential for excessively overshadowing rear gardens is significantly minimised. Shadow study is attached to the grounds which illustrates the impact of shadows cast by the proposed development at 9.00am, 12.00 noon, 3.00pm and 6.00pm throughout the year. In no case is any existing rear garden significantly deprived of sunlight. Willow Park Road properties will enjoy in excess of 6 hours sunlight over half the garden up to 3.00 pm on 21st March and throughout the year to 21st September. The garden to the rear of No. 75 would continue to receive sunlight to at least 80% of its area from early morning on 21st March to early afternoon (6-8 hours) throughout the year to 21st September and beyond. Potential for overshadowing is minor and would not exceed the BRE document referenced in DCDP.
- Private open space meets the minimum standards in DCDP and the application of an additional standard of 11m length is unreasonable and arbitrary and not in DCDP.
- A level 2 Flood Risk Assessment is attached to the grounds. It can be seen that the risk is no greater than on other sites in the neighbourhood and with the adoption of standard SUDS measures, will not increase the risk of flooding to any adjacent or nearby sites.
- In the event that the Board considers that the height of the proposed development is the most salient issue which is militating against a positive decision they offer a compromise design and drawings are attached to the grounds which:
 - eliminate attic level accommodation in B1 & B2 mitigating any overlooking from second floor windows;
 - lower pitch and eaves levels of B1 & B2 to 8.4m height, similar to existing dwellings on Pinewood Crescent;

- reduce floor area and bed-space: in B1 – 164 sqm, reduced to 144 sq m; B2 – 147 sq m, reduced to 127 sq m; A1 – 130 sq m, reduced to 128 sq m; plot ratio reduced from 0.47 to 0.43.
- lengthen rear garden of existing house is to 11 m.
- redesigned attic level accommodation in A1 to omit the staircase, formerly facing No. 79 Pinewood Crescent; lower roof pitch and eaves height of A1, mitigating potential overbearing issues; and, omitting rear bay of A1 increasing separation distance to boundary with No. 79 to 2.3m

- 7.3. A Schedule of Compliance with Section 5.3 Quality Homes for Sustainable Communities is attached to the grounds, which sets out the accommodation to be provided.
- 7.4. A drawing titled Site Sections & Context Elevations is attached to the grounds, which shows the ridge heights relative to the existing dwelling and other buildings in the area.
- 7.5. Shadow diagrams for 21st March, 21 June, 21 September and 21 December are attached to the grounds, which illustrates the impact of shadows cast by the proposed development at 9.00am, 12.00 noon, 3.00pm and 6.00pm throughout the year. It is stated that in no case is any existing rear garden significantly deprived of sunlight. Willow Park Road properties will enjoy in excess of 6 hours sunlight over half the garden up to 3.00 pm on 21st March and throughout the year to 21st September. The garden to the rear of No. 75 would continue to receive sunlight to at least 80% of its area from early morning on 21st March to early afternoon (6-8 hours) throughout the year to 21st September and beyond. Potential for overshadowing is minor and would not exceed the BRE document referenced in DCDP.
- 7.6. A proposed layout plan compromise design is attached to the grounds. Revised house plans, elevations and Schedule of Compliance with Section 5.3 Quality Homes for Sustainable Communities. are attached to the grounds.
- 7.7. A Flood Risk Assessment prepared by OBA Consulting is attached to the grounds. It includes:

- River Tolka Flooding Study commissioned in 2001 following significant flooding in November 2009. Although the Wad River catchment was included as part of the hydraulic modelling no flood maps were produced for the area containing the proposed development, due in part to the Wad classified as a culverted/piped river.
- OPW Preliminary Flood Risk Analysis (PFRA) (superceded by CFRAM programme regarding fluvial flooding), it provides valuable information with regards to pluvial and groundwater flooding
- Wad Drainage Catchment Study (2012) – historically the Wad River was an open culvert but has been completely replaced with culverts/pipes of varying dimensions. The upper reaches of the Wad, west of Ballymun Rd., was diverted to the Tolka in 1967 to alleviate flood issues further downstream along Collins Ave. Figure 2.2 of the report indicates the catchment area which was subject to diversion, which area includes the subject site. Flood maps were produced as part of the Wad Catchment Study but was restricted to the main Wad catchment and did not include the diverted catchment containing the proposed development.
- Interim review and recommendations following the Dublin flood event of 24th October 2011 – a flood map was produced as part of the report to record instances of flooding during the event, no flooding was recorded at the site or surrounding area.
- FloodResilientCity Project to share knowledge and experience at a European level; and to assist in the development of a pluvial flood risk management strategy for Dublin. A pluvial model was created based on the 1% AEP (180mm) return rainfall event. It indicates some fluvial flooding across the site, however it should be noted the hydraulic modelling did not include structures such as houses and boundary walls which will inhibit natural flow path.
- Sources of flooding – fluvial - there are no overland waterbodies, the Wad River is culverted in the vicinity of the site, the inlet is located c75m north

west. Pluvial sources do not show pluvial flooding at the site or surrounding area. The flood resilience map indicates a pluvial pathway across the south east section of the site where the proposed driveway and single property will be situated. A slight slope is present across the site in a south east – north west direction. The presence of the block wall to the northern and western boundary will inhibit surface water flow from the site and could result in localised ponding. There is no known risk of groundwater flooding in the area.

- The area is classified as flood zone C.
- Residual risk – risks that remain after risk avoidance:
 - Potential blockage of the Wad River culvert northwest of the development (fluvial). The wetland has substantial capacity, a blockage of the culvert could pose a residual risk to the site. No overland pathway was identified from the culvert system to the proposed development. Any overland flow will follow the Willow Park Road and connected stormwater system away from the site. The presence of the footpath kerb, boundary wall and residential properties will prevent any overland flow from reaching the site. Fig 4.1 is a schematic representation of that analysis.
 - Failure of designed stormwater system (pluvial). Although no historic pluvial flooding was recorded at the site, review of the site topography and soil type may indicate some risk of pluvial flooding. As the site is surrounded by a block boundary wall and a raised access level from Pinewood Crescent this will prevent the inflow of surface water from surrounding properties/road, it also restricts the egress of surface water from the site. A slight fall to the rear of the site any surface water generated on site will flow towards the rear and be contained by the boundary wall, this together with the soil type could result in ponding.

- Proposed mitigation – pluvial – stormwater system. Discharge will be limited to 2l/s, to accommodate a 1:100 year return period including an allowance for climate change (10%), and permeable access driveway, ultimately discharging to the public stormwater system located along Pinewood Crescent. The system will ensure sufficient protection against possible fluvial flooding onsite and no increased risk of flooding to the neighbouring properties.
- The ffl will have a freeboard of 100mm above the driveway, limiting the risk to the dwellings.

7.8. Planning Authority Response

The planning authority has not responded to the grounds of appeal.

7.9. Observations

D Cassidy, C Lynch, P Kavanagh, B Glynn & J Bambrick, P & AM Conkey, P Martin, B & P Sherry, K Mulligan & B Webb-O'Maolagain, J Davis, P Christie, B Coates & D Moher, and J Dunne have submitted observations on the appeal. These observations include:

- Loss of privacy, impact on residential property.
- Overshadowing. - Sunlight would be affected particularly 100 & 102 Willow Park Road where large section of garden near B1 would be in shadow at certain times of year.
- Overbearing - Having a sheer gable wall beside your end boundary is overbearing. Site is elevated compared to property to north.
- Too close to boundary of Willow Park Road.
- Out of character with the area, proposed dormer is really two storey, no boundary details. Houses in the area: Pinewood Crescent are 8.4m high half - hipped semi -detached, Willow Park Road similar but with A line gables. It does not respect local context or street pattern.
- Traffic hazard - dangerous bend, opposite St Michaels, new junction with narrow entrance, no footpath; area used by learner driver's on street parking,

bin lorries and emergency vehicles would have difficulty accessing, congestion on road. St Michaels requires specially modified vehicles to transport residents with intellectual and physical disabilities several times throughout the day, increase in traffic on this corner would be hazardous the entrance exit has an obscure view. Only width for one vehicle at a time.

- Construction traffic plan required.
- Underground stream running through lands causes flooding and the water table will be affected. R Wad causes flooding.
- Removal of trees has led to drainage issues.
- The Wad stream originally flowed along the perimeter walls of Willow Park Road.
- Existing localised flooding. The extra building will add to these problems.
- The efforts of Ballymun regeneration to offset the localised flooding has not fully worked. Gardens experienced flooding due to the fact that the Wad river was not able to take all the water draining in from Poppintreee Park, rear garden walls were in a dangerous condition and walls were rebuilt and remedial work to the Wad culvert was carried out. A pond used to form in the rear garden of this property. Residents on Willow Park Road continue to suffer flooding in their rear gardens.
- All the gardens extending from 108 to 96 Willow Park Road currently experience flooding after heavy rain near the boundary wall at the end of their gardens.
- A shed at the end of the garden of No. 106 has been affected by flooding.
- The boundary wall of No. 75 Pinewood Crescent has been replaced twice by Dublin City Council when it fell due to flooding. The wall of this site also required replacement, a second wall was built behind the existing wall, due to consent issues.
- Flood report consultants did not speak to residents and avail of local knowledge.
- Trees have been planted for soakage. Trees and shrubbery have been removed from this garden.

- Tree cutting to facilitate development.
- Security compromised
- Sewerage problems in vicinity, pumps may not be maintained. The sewer line in the ownership of 73, 75, 77 and 79 Pinewood Crescent blocks (3 times in 2017) and has to be rodded. The proposed development will necessitate excavating the ground under the existing sewage system and may damage sewer line. Owners require guarantees.
- There are underground ESB lines near the site.
- Would affect bird life.
- Threat of rats from construction.
- Light pollution from street lights.
- Description – no mention of new entrance to existing house.
- Two further houses may be built to the rear of No 75.
- Applicant's claim that site was previously commercial is untrue.
- Similar development at 21 Pinewood Crescent was refused.
- Depreciate the value of property.
- Front elevations overlook the backs of houses.
- The rear gardens of 104 - 106 Willow Park Road adjoining are short.
- The back to back distances quoted in the grounds take advantage of adjoining rear gardens.
- In the context of the separation distances currently enjoyed the minimum back to back distance of 22m would cause overlooking. The back to back distance is 20m at some points.
- Encroachment on quiet back gardens and exposure of rear gardens to security problems.
- Doesn't agree with the compromise design.
- Reference to 4034/15 is a poor choice no decision has been made on that, and 4061/06 was invalid.

- 1963/06 at 21 Pinewood Crescent was refused for the reason: the density and site coverage taking into account the restricted size and orientation of the rear gardens would be out of character and result in overdevelopment, seriously injure the amenities and depreciate the value of property... 21 Pinewood Crescent opens onto a green space.
- Concerned about users of the footpath on Pinewood Crescent crossing the new junction.
- The only speed ramp in the area leads up to this bad bend.
- ESB National grid lines were buried close to the rear of the site during the construction of Cuilenn Road.
- Parking in the area has become an issue with increased use by staff of the two St Michael's residences and their minibus services.
- Violates human rights – right to peaceful enjoyment.

8.0 **Assessment**

8.1. The issues which arise in relation to this appeal are: appropriate assessment, residential amenity/backland development, flood risk, drainage, traffic and other issues and the following assessment is dealt with under those headings.

8.2. **Appropriate Assessment**

8.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

8.3. **Residential Amenity/Backland Development.**

8.4. The impact on the residential amenity currently enjoyed by the properties at Pinewood Crescent and Willow Park Road is the subject of many observations. The area is a settled residential area with long rear gardens where the back to back

privacy distances are well in excess of the minimum standard required. As noted in the observations, these rear gardens are quiet and private.

- 8.5. The shadowing which would be caused is of concern to observers. Shadow drawings are attached to the grounds which illustrates the impact of shadows cast by the proposed development at 9.00am, 12.00 noon, 3.00pm and 6.00pm on the 21 March, 21 June 21, September and 21 December. It is stated that in no case is any existing rear garden significantly deprived of sunlight and that Willow Park Road properties will enjoy in excess of 6 hours sunlight over half the garden up to 3.00 pm on 21st March and throughout the year to 21st September. The garden to the rear of No. 75 would continue to receive sunlight to at least 80% of its area from early morning on 21st March to early afternoon (6-8 hours) throughout the year to 21st September and beyond. It is further stated that potential for overshadowing is minor and would not exceed the BRE document referenced in DCDP. I accept that although there will be an overshadowing impact on private amenity space, particularly No. 75 Pinewood Crescent and properties on Cuilenn Park the impact is not such that planning permission should be refused.
- 8.6. Concern is expressed that the access to the proposed houses breaches a perimeter established by the existing dwellings, garages and secure entrances along Pinewood Crescent which would pose a threat of access to rear gardens of other properties. In this regard it is noted that there are no proposals regarding boundary treatment, but adequate boundaries would address this issue.
- 8.7. It is of concern to some observers that traffic entering the short access roadway will cause light pollution. The rear of these properties is particularly secluded but in an urban location this situation is very difficult to maintain and it should not be a reason to refuse permission.
- 8.8. The concerns expressed include the overlooking of the rear of houses and gardens from ground, first and second floor windows which will be located in close proximity to property boundaries and close to dwellings. The three dwellings to be located towards the rear of the site are close to properties in Willow Park Road and the front of these dwellings look (south east) towards the rear of properties on Pinewood Crescent. The rear of No. 75 Pinewood Crescent as well as the host property would be particularly affected. The fourth proposed dwelling faces north east towards the

rear garden of and the back of houses on Cuilenn Park. This dwelling has a shallow site with private open space provided in a side garden. The rear of the dwelling is 1.3m from the lateral boundary of No. 79 Pinewood Crescent which would have the kitchen window and back door at this proximity. The only window in this elevation lights a stairwell.

- 8.9. The Board should note that in order to mitigate these concerns a revised proposal to remove the accommodation at 'attic level' and reduce the height of house type B1 and B2 such that these are two storey rather than three storey houses; and to reduce the depth of part of the ground floor of the dwelling type A1 by 1m by removing the projection at the kitchen dining area. The distance to the rear boundary, the lateral boundary of No. 79 Pinewood Crescent, is thereby increased from 1.3m to 2.3m. The proposed parking area for A1 is reduced to 1 space and the garden area remaining with No. 77 Pinewood Crescent is increased from 84 sq m to 103 sq m.
- 8.10. It is stated that the proposed development would have an overbearing impact on adjoining properties. The compromise design submitted for the Board's consideration, would reduce the impact on Willow Park properties but the impact on No 79 Pinewood Crescent would continue to be somewhat overbearing due to the proximity of the proposed dwelling (type A) to its side boundary.
- 8.11. The development plan refers to backland development in 16.10.8 of the Dublin City Development Plan. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. The development of individual backland sites can conflict with the established pattern and character of development in an area. It can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise and loss of mature vegetation or landscape screening; and by blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area.
- 8.12. Although this is a large rear garden, the entrance is narrow and the proposed development would have the appearance, when viewed from the road, of being shoehorned into the site. The density is not excessive, but, because of the constraints of the site, unacceptable levels of overlooking, of the rear of properties, from the front of the proposed development, would arise. In my opinion the concerns

of observers are valid, in relation to loss of privacy, the inappropriate design of the development and overbearing impact and these issues are such as to warrant the refusal of planning permission for this reason.

8.13. **Flood Risk**

- 8.14. The issue of flood risk is one of the reasons for the planning authority's decision to refuse permission: the failure to submit a flood risk impact assessment for the proposed development per DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management published in November 2009 and the Dublin City Development Plan 2016 – 2022 Strategic Flood Risk Assessment (SFRA) Volume 7. The Planning Authority was consequently not satisfied that the development has been designed such that the risk of flooding to the development has been adequately addressed and that the proposals do not increase the risk of flooding to any adjacent or nearby area (over the risk of flooding from a greenfield site).
- 8.15. As part of the grounds of appeal the applicant has submitted a flood risk impact assessment for the proposed development. It refers to the River Tolka Flooding Study commissioned in 2001 following significant flooding in November 2009 and states that although the Wad River catchment was included as part of the hydraulic modelling no flood maps were produced for the area containing the proposed development, due in part to the Wad classified as a culverted/piped river. It references other sources including the OPW Preliminary Flood Risk Analysis (PFRA) and the Wad Drainage Catchment Study (2012). In 1967 diversion to the Tolka of the upper reaches of the Wad, west of Ballymun Rd, was carried out to alleviate flood issues further downstream along Collins Ave. The catchment area subject to diversion includes the subject site.
- 8.16. A flood map, produced as part of the report Dublin flood event of 24th October 2011, has no record of flooding at the site or surrounding area.
- 8.17. A pluvial model based on the 1% AEP (180mm) return rainfall event as part of the FloodResilientCity Project indicates some fluvial flooding across the site. The assessment notes in this regard that the hydraulic modelling did not include structures such as houses and boundary walls, which will inhibit natural flow paths.

- The assessment states that there are no overland waterbodies which might be sources of fluvial flooding, since the culverting of the Wad River.
- Pluvial sources do not show pluvial flooding at the site or surrounding area, although a slight slope in a south east – north west direction across the site is noted and the presence of the block wall to the northern and western boundary will inhibit surface water flow from the site and could result in localised ponding.
- There is no known risk of groundwater flooding in the area.

and it classifies the area as flood zone C.

9.0 Proposed mitigation – pluvial – stormwater system; discharge will be limited to 2l/s, to accommodate a 1:100 year return period including an allowance for climate change (10%), and permeable access driveway, ultimately discharging to the public stormwater system located along Pinewood Crescent. The system will ensure sufficient protection against possible fluvial flooding onsite, and no increased risk of flooding to the neighbouring properties.

10.0 The ffl will have a freeboard of 100mm above the driveway, limiting the risk to the dwellings.

10.1. Residual risk are identified as:

- Potential blockage of the Wad River culvert northwest of the development (fluvial). The wetland has substantial capacity, a blockage of the culvert could pose a residual risk to the site. No overland pathway was identified from the culvert system to the proposed development. Any overland flow will follow the Willow Park Road and connected stormwater system away from the site. The presence of the footpath kerb, boundary wall and residential properties will prevent any overland flow from reaching the site
- Failure of designed stormwater system (pluvial). Although no historic pluvial flooding was recorded at the site, review of the site topography and soil type may indicate some risk of pluvial flooding. As the site is surrounded by a block boundary wall and a raised access level from Pinewood Crescent this will prevent the inflow of surface water from surrounding properties/road, it also restricts the egress of surface water from the site. Since there is a slight fall to the rear of the

site any surface water generated on site will flow towards the rear and be contained by the boundary wall, this together with the soil type could result in ponding.

- 10.2. The issue of flood risk has been raised by observers who state that flooding has been a frequent occurrence in this area after prolonged rain, has damaged boundary walls, requiring their replacement, and damaged one observer's shed; and that ponding on the subject site occurs. They criticise the flood risk impact assessment for failure to contact residents and avail of local knowledge.
- 10.3. It is stated in the flood risk assessment that diversion of the upper reaches of the Wad, took place in 1967. A letter dated 1995 from Dublin Corporation (attached to an observation) refers to frequent flooding at the end of the gardens at Pinewood Crescent at that time: with extensive ponding of water, up to two inches deep on the open space adjacent to the common boundary, in periods of heavy rain; and that some of the back gardens appear to be at a lower level than the adjacent open space. It was proposed at that time to provide a land drain to remove excess surface water run-off from the open space. Observers state that flooding continues to be an issue.
- 10.4. The existing situation of a large back garden means that if flooding occurs it is of limited significance. The proposal is to develop four dwellings, with hard surface areas including parking an access road and footpaths. It is accompanied by surface water proposals which include collection of surface water from roofs, for attenuation and disposal to the surface water system and infiltration of runoff from roads through permeable paving. The proposal involves raising of levels above existing ground levels. Flooding of the small back gardens attached to the three dwellings proposed to the rear of the site would be a more acute problem for those residents who will have only limited rear garden space available, than it is currently in the context of the a very large rear garden. A likely response would be to raise the levels of these gardens and displace the flooding.
- 10.5. I am not satisfied that all the issues associated with the potential for pluvial flood risk have been fully addressed.
- 10.6. I note that historic mapping indicates that streams / rivers flowed along both rear boundaries in a south easterly direction and in a south westerly direction. I note that

the flood risk assessment identifies as a residual risk the potential blockage of the Wad River culvert northwest of the development; but that the presence of the footpath kerb, and boundary walls and residential properties will prevent any overland flow from reaching the site. It is not clear that any access to the rear of properties was available to the assessor in order to reach these conclusions. I note that the Engineering Department - Drainage Division – report on the application required additional information:

A full site specific flood risk impact assessment which provides detailed information on identifying and proposing solutions to mitigate the potential risks from all sources of flood risk. Specifically, the concerns of residents in this area of pump failure, pluvial (surface water flood paths), fluvial (Wad River) and groundwater (water table levels) flood risks shall be addressed in the report. The exact location of the existing Wad River surface water culvert at the rear of the proposed development site should be identified to ensure its protection during construction works and to establish if a surface water connection is possible. Reference should be made to the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management published in November 2006. Flood risks from 100 - year storms shall be addressed with OPW recommended climate change factors applied. The developer shall confirm in writing to the Drainage Division that the development has been designed such that the risk of flooding to the development has been adequately addressed, and that the proposals do not increase the risk of flooding to any adjacent or nearby area (over the risk of flooding from a greenfield site).

10.7. The flood risk assessment submitted for the Board's consideration does not address all the matters raised in the foregoing report, does not reflect the experience of residents of the area and therefore I am not satisfied that the issues of pluvial and fluvial flood risk have been fully addressed.

10.8. **Drainage**

10.9. Foul wastewater - It is proposed to provide a pump for the discharge of foul effluent from each of the dwellings. A pump is to be installed in each driveway and individual pipes will combine at the front of the north eastern dwelling, and will continue as a single rising sewer, discharging via a standoff manhole at the road junction to a

proposed new gravity sewer to be provided in the public roadway and to an existing manhole on the public sewer 25m to the south, on the opposite site of the public road.

- 10.10. Because of the ongoing energy and maintenance costs and associated risks with the pumping of foul effluent, there should, in my opinion, be a presumption against pumping, unless a convincing argument can be made that it is a sustainable option; in this regard the net present value of the cost of the system over a 40 year lifespan should be provided so that an informed decision can be made.
- 10.11. Surface Water - It is proposed to collect surface water and attenuate it on site prior to discharge via a 150 diameter uPVC pipe, laid at a gradient of 1:150 connecting to a new 225 diameter surface water sewer, laid in the public road to discharge to an existing surface water sewer on the public sewer c25m to the south, on the near site of the public road.
- 10.12. Existing services to the house on the site are not shown. No longitudinal sections, cross sections or other design details of the proposed service mains have been provided. Observers state that a private sewer, which is subject to blockage, serves the house on the subject site and three others: 73, 75, and 79 Pinewood Crescent,. This sewer must be crossed by both the proposed surface water sewer and the foul rising sewer. In relation to the surface water sewer there appears to be little tolerance for alteration.
- 10.13. The Engineering Department - Drainage Division report on the application states that due to the lack of adequate drainage information it is not possible to state that satisfactory drainage can be provided for this development and that the applicant should consult the Drainage Division prior to submission of revised plans to ensure all drainage issues are addressed. A further information request did not issue. There is no indication of any consultation having taken place, and the grounds of appeal do not include any amendments to or additional information in relation to drainage. In my opinion the information provided is insufficient to enable a determination to be made that the proposed development can be adequately serviced.

10.14. **Traffic**

10.15. The additional traffic turning movements at a bend on the public road and the break in the footpath for this new junction is the subject of concern by observers. The use of the road for parking and by learner drivers is also raised. The proposed development is in a built-up area where no exceptional traffic safety issues arise. It is worth noting that the proposed development although not the development description, shows a new entrance to the existing dwelling required because the existing entrance is to be developed as a driveway.

10.16. The Roads Streets and Traffic Department Road Planning Division reported on this application and had no objection to the proposal subject to conditions. I am satisfied that traffic safety should not be a reason to refuse planning permission.

10.17. **Other Issues**

10.18. Other issues raised by observers include

- Precedent – that the proposed development would lead to further such development is stated in the first refusal reason and is also raised by observers, who are concerned in particular that there could be further such development in the immediate vicinity. Since the development plan allows for such development in certain circumstances the issue of precedent should not be a reason to refuse permission.
- Underground ESB lines – it is stated by observers that undergrounding of ESB lines in the area was carried out in connection with the development of Cuilenn Road. If the Board were minded to grant permission this is matter should be addressed by way of further information.
- Design out of character with the area – the design of the proposed development, in the context of established built form in the area has been raised as a concern by observers. The issue of the appearance of the development as viewed from the road has been addressed above under the heading backland development. The issue of its impact on adjoining development has been addressed under residential amenity/ backland development. In relation to the design or appearance of the proposed dwellings, since the development could be regarded

as separate from each of the adjoining residential areas referenced in the observations, and does not unduly conflict with the appearance of those adjoining residential areas, in my opinion the design / appearance is acceptable and should not be a reason to refuse permission.

- Various of the applicant's claims are challenged. It is stated by observers that the applicant's claim that the site was previously commercial is untrue. It appears to me that the site is and always was residential in nature. The claim that it had some other use is largely only relevant in relation to traffic safety and is likely to have little bearing on the Board's decision. The applicant's claim that there is general support for the proposal is stated by observers to be untrue. The appeal process puts this matter to rest.

11.0 Recommendation

- 11.1. In accordance with the foregoing assessment I recommend that planning permission be refused for the following reasons and considerations.

12.0 Reasons and Considerations

1. Having regard to the Z1 residential zoning as set out in development plan to the backland nature of the site and to the layout and scale of the proposed development and its proximity to existing residential development, it is considered that it would result in development which has a disorderly appearance and impacts adversely on the existing amenities of residential development by reason of excessive overlooking, and of having an overbearing impact. It is considered therefore that the proposed development would seriously injure the amenities of adjoining property, would depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development in the area.

2. The Board is not satisfied on the basis of the information available that the proposed development is not located in an area where there is a risk of flooding and that it would not increase the risk of flooding to any adjacent or nearby area (over the risk of flooding from a greenfield site).

- 3 The Board is not satisfied on the basis of the information available, that the proposed development can be adequately serviced by means of surface water and foul drainage.

Planning Inspector

15 March 2017

Appendix	1	Map and Photographs
Appendix	2	Copy extracts from Dublin City Development Plan 2016-2022.
Appendix	3	Copy extracts from Irish Water's Connections and Developer Services Code of Practice for Wastewater Infrastructure (a design and construction guide for developers) Dec 2016