



An
Bord
Pleanála

Inspector's Report PL06F.248799

Development	Construction of two houses in garden of existing house, new boundary division walls and all associated site works.
Location	7 Windmill Lands, Swords, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	FA16/0410.
Applicant(s)	Robbie Knight
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Niall Savage.
Observer(s)	None.
Date of Site Inspection	20 th August 2017.
Inspector	Patricia Calleary.

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.11 hectares comprises a semi-detached single storey house and garden at the end of a short cul-de-sac known as Windmill Lands, north of Brackenstown road and west of Swords in north County Dublin.
- 1.2. There is a primary school, St. Conan's school, located to the west, and lands to the north contain two-storey houses in Glassmore Park. No. 7A Windmill, a detached house, is located immediately east of the site and the cul de sac turning circle provides access to the site from the south. A combined sewer traverses the site.
- 1.3. The immediate area is characterised by single storey semi-detached and detached houses with spacious gardens and the wider area is residential in nature with the Ward River Valley park located to the south of Brackenstown road.

2.0 Proposed Development

- 2.1. As described on the public notices, the proposed development involves the construction of two additional houses in the side/rear garden of an existing house together with new boundary division walls and all associated site works. Based on a review of the drawings on file, the development would consist of 2 no. three bedroom, single storey semi-detached houses, positioned in the north side garden of the host house. The vehicular entrance would be off the existing access serving the host house, which would be adjusted and extended to provide access to all three houses.
- 2.2. The response to the further information request submitted to the Planning Authority included details around drainage, surface water, water supply and a swept path analysis drawing. The site layout was revised and this is represented on the amended drawings received by the Planning Authority.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission with the following conditions of note:

- C4: Engineering requirements (front boundary wall, visibility, footpath, services);
- C6: Protection of the combined sewer on site;
- C12: Submit photographs of the installation of the rainwater harvesting units.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planning Report

- No overlooking or overshadowing onto neighbouring properties is foreseen;
- Adequate private amenity space is proposed and existing house would retain adequate private amenity space;
- Proposed house designs would meet the Development Management standards;
- Exempted development rights should be removed including the provision of sheds/stores;
- Would integrate well with the pattern and character of the area.

3.2.2. A recommendation to request further information on matters around traffic, surface water drainage, water supply layout, foul water details and revised drawings was put forward.

Second Planning Report (post receipt of further information)

- Responses to further information noted and considered acceptable;
- All issues relating to vehicular access, drainage, water supply and boundary treatment have been satisfactorily addressed;
- Proposed development will provide for a suitable scale of infill development.

Following consideration of the further information received, a recommendation to grant permission was put forward.

3.2.3. Other Technical Reports

- Transportation Planning – Initially sought further information (swept path analysis showing that two in-curtilage parking spaces). On receipt of further information - No objection subject to conditions;
- Water Services Planning (Surface Water) – No objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water – No objection subject to conditions.

3.4. Third Party Observations

A number of third party observations were received and the issues raised have been taken into account by the Planning Authority. I also note the contents of these in my consideration of this appeal. Concerns are mainly raised around traffic safety, drainage capacity, constraints for emergency access and procedural issues.

4.0 Planning History

4.1. Appeal Site

F16A/0162 – Permission was refused by Fingal County Council for a pair of two-storey semi-detached houses (June 2016) on matters of design (two-storey considered visually obtrusive) and potential impact on drainage infrastructure.

4.2. In the vicinity

No recent relevant planning history has been brought to my attention.

5.0 Policy Context

5.1. Fingal County Development Plan 2017-2023

- 5.1.1. The following provisions of the Fingal County Development Plan 2017-2023 are considered relevant:

- Located in an area with **Zoning objective 'RS'**: Provide for residential development and protect and improve residential amenity' and with a corresponding vision: 'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.'
- **Infill, Corner and Backland Sites** - The development of underutilised infill, corner and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill;
- **Objective PM44** - Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected;
- **Objective DMS24** - Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3;
- **Objective DMS87** - 3 bedroom houses or less to have a minimum of 60 sq m of private open space located behind the front building line of the house;
- **Objective DMS44** - Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.
- **Table 12.8 (car parking standards)** requires a house in an urban/suburban area with 3 or more bedrooms to have 2 car spaces within the curtilage.
- **Chapter 7 – Movement and Infrastructure Extract – Roads:** Where new entrances are necessary, the relevant road design standards will be applied (DMURS in urban situations – Design Manual for Urban Roads and Streets). Such road standards are required to guarantee the safety of the general public in the County and protect the carrying capacity of the road network.

5.2. National Guidance

5.2.1. The following national guidance is considered relevant:

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DEHLG 2009).

- **Section 4.4.1 Carriageway widths** - Lane widths may be reduced to 3m on those Arterial and Link streets where lower design speeds are being applied, such as in centres and where access for larger vehicles is only occasionally required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was received from Niall Savage who resides at No.7A, Windmill Lands, which is the detached house immediately to the east of the appeal site. The following concerns were raised in the grounds of appeal:

- Impact of the development on health & safety of children;
- Traffic safety would become an issue because of car manoeuvres;
- Small entrance available for 3 houses which would result in difficulty for emergency access;
- Inadequate surface water drainage which could result in flooding.

6.2. Oral Hearing Request

6.2.1. The appeal was accompanied by a request for an oral hearing from the appellant. Following consideration of the request, the Board decided not to hold an oral hearing and parties were advised accordingly.

6.3. Applicant Response

6.3.1. A response on the appeal was received from Green Design Build on behalf of the applicant. The response is summarised as follows:

- Vehicular parking will take place within the appeal site and there will be no on-street parking requirements;
- Swept-path analysis was prepared which demonstrated the access and egress arrangements to the site;
- Access for the fire service complies with the requirement of Part B of the Building Regulations with access achievable from the public road, well within the 45m maximum distance requirement;
- Water harvesting is proposed including three 4,500 litre capacity tanks;
- Drain to the rear of the site has been cleaned up and culverted with a 300mm diameter percolation pipe. In addition, permeable paving is proposed to be used in the driveways.

6.4. Planning Authority Response

6.4.1. The Planning Authority stated that full consideration to the issues raised in the objection was given during the assessment of this application. Additional comments included the following:

- All cars can be accommodated on site and no on-street parking would result. No concerns were raised by the Transportation Planning Section;
- Following receipt of further information from Water Services Planning and Irish Water, no further issues were raised;
- Requests An Bord Pleanála to uphold the Planning Authority's decision and to attach Conditions Nos. 14 and 15 of the decision.

6.5. Observations

6.5.1. None

6.6. Further Responses

6.6.1. None

7.0 Assessment

7.1. Introduction

7.1.1. I consider the key issues in determining the application and appeal before the Board are as follows:

- Compliance with Development Plan Policy and Objectives
- Residential Amenity
- Visual Amenity
- Access and Traffic
- Drainage
- Other

I deal with each of these issues as set out under the respective headings below.

7.2. Compliance with Development Plan Policy and Objectives

7.2.1. Fingal Development Plan 2017-2023 was adopted since the planning officer's assessment, which was based on the earlier 2011-2017 plan.

7.2.2. Under the current development plan, the site is located within an area which is zoned 'RS – to provide for residential development and protect and improve residential amenity'.

7.2.3. Both the Guidelines for Planning Authorities on 'Sustainable Residential Development in Urban Areas' and the Fingal Development Plan are supportive of providing additional dwellings within inner urban areas of towns and cities, proximate to transport corridors, while also recognising that a balance needs to be struck between the reasonable protection of amenities and privacy of directly adjoining neighbours and the general character of the area.

7.2.4. The development would accord with the development management standards set out in the Fingal Development Plan, including Table 12.1 (Houses) which requires a 3 bed house accommodating 4 persons on one floor to provide 73 sq.m floor space noting that 82 sq.m floor space for each of the two new houses is proposed.

- 7.2.5. Rear gardens of each of the houses and the host house would appear to meet the requirements of Objective DMS87 for a 3-bedroom house (60 sq.m). If the Board were minded to grant permission, I recommend that in order to ensure that a reasonable amount of rear garden space is retained for the benefit of the future occupants of the dwellings and in the interest of the amenities of the area that a condition be attached to prohibit the exempted development rights of the existing and proposed houses.
- 7.2.6. I am satisfied that the proposed development of two houses on residential zoned lands is acceptable in principle and is also supported by **Objective PM44**, which encourages the development of underutilised infill sites in existing residential areas subject to the character of the area and environment being protected.
- 7.2.7. Notwithstanding my view that the development of the two houses is acceptable in principle, this is subject to other relevant planning considerations discussed below.

7.3. Residential Amenity

- 7.3.1. Having regard to the size, scale and position of the proposed single storey houses together with the boundary treatment, I am satisfied that no overlooking onto neighbouring properties beyond the site curtilage would result. Noting the separation distance between the houses and other neighbouring properties, I am equally satisfied that issues of excessive overshadowing onto adjoining properties do not arise.
- 7.3.2. Notwithstanding the above, I have serious concerns regarding the residential amenity of the future occupants of the existing house as extended. I note the initial layout drawing submitted to the Planning Authority (Dwg No.1601-301A dated September 2016) showed a new boundary wall would run along the access, which I consider would be generally acceptable. However, a porch projection to the front of the house appears to have been recently constructed and is represented on the subsequent drawings submitted at further information stage (Dwg No.1601-301B dated May 2017). This revised layout drawing shows the proposed boundary wall would impede access to a part of the front of the house and would give the house an overly cramped feel. Cars passing along the access to the new proposed houses would travel excessively close to the existing house and particularly its front room¹

¹ The rooms are not labelled, however, this room would be capable of use as a bedroom.

window. The proposed 900mm high boundary wall would sit at an angle forward of the existing house, acting to separate the house from the vehicular access to the proposed two new houses. This boundary wall would be located c.200mm from the closest point to the house, i.e. the added front porch and c.1.3m from the middle of the front (unlabelled) room window which I consider would be too close to the house and incongruous. I consider the access itself would also be too close to the existing house particularly considering the intrusion which would result from illumination of car headlights as vehicles would pass onwards past the existing house.

- 7.3.3. The proposed development would constitute over-development of the site with restricted access, would cause a loss of privacy for the future occupants of the existing house by virtue of insufficient separation between the existing house and adjoining access serving the two proposed houses, resulting in an unsatisfactory residential amenity standard. On the basis of the above, permission should be refused.

7.4. Visual Amenity

- 7.4.1. The houses would be positioned to the rear and side garden of the existing host house. They would not be overly visible from the cul de sac road and in any case they would integrate well with the existing character of the surrounding residential area. Objective DMS44 requires the protection of areas with a unique, identified residential character. I note that the houses would be visible from a number of neighbouring houses, but they would be viewed against the backdrop of existing suburban housing and therefore would not be prominent.
- 7.4.2. I am satisfied that the proposed development would comply with this stated objective (DMS44) given that the houses would fit with the surrounding character in terms of type, scale, materials and design.

7.5. Access and Traffic

- 7.5.1. Issues around traffic safety are raised in the grounds of appeal. Particular concern is raised around the reversing movements of cars onto the public road. The layout initially presented, showed two cars being accommodated within the curtilage of each of the existing house and two new houses (Dwg No.1601-301A dated

September 2016). Following a request for further information, a revised layout plan (Dwg No.1601-301B dated May 2017) and a swept path analysis drawing (Dwg 1601-302 dated May 2017) were presented.

- 7.5.2. The site layout plan was amended, probably to accommodate manoeuvring of cars in respect of the two new houses and to take into account the added porch to the front and extension to the rear which appear to have been constructed in the interim. Of significance, I note that only one car is represented within each of the site curtilages and this follows through on the swept path analysis drawing. In addition, the manoeuvring of a car in and out of the existing house would involve reversing onto a shared cul de sac while at the same time requiring awkward reverse turning movements. I am not satisfied that this would be safe.
- 7.5.3. Having reviewed all of the information on file, I have two concerns regarding the proposed layout from a transport and access perspective. My first concern is that there appears to be insufficient in-curtilage parking proposed for each of the existing and two new houses based on the revised drawings submitted, where one car per house is shown on the revised layout and swept path drawings and where two are required under Table 12.8 of the current Fingal Development Plan. My second concern is the constrained access arrangement proposed which would result in unsafe car manoeuvres in particular to and from the existing house. I consider that the site cannot safely accommodate vehicular movement to and from the existing house and accordingly would endanger public safety by reason of a traffic hazard. Having regard to these unresolved concerns, I recommend that permission be refused on traffic and access grounds.

7.6. Drainage

- 7.6.1. Wastewater would discharge to the combined sewer which traverses the site. The sewer pipework and wayleave would remain.
- 7.6.2. Concerns are raised in the appeal around surface water disposal. Following a request for further information regarding surface water disposal, a response was submitted which included proposals for three rainwater harvesting tanks, one per house, each with a capacity of 4500 litres. This would form part of the surface water

management with excess surface water being discharged to the combined sewer. Use of permeable paving is also proposed in the driveways.

- 7.6.3. I note that the water services section had no objection to surface water disposal subject to recommended conditions. I am equally satisfied that surface water can be satisfactorily managed having regard to the limited extent of the development and the surface water management proposals.

7.7. Other

7.7.1. Appropriate Assessment

The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, 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.

8.0 Recommendation

- 8.1. I recommend that **permission** should be **refused** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. It is considered that the proposed development would constitute over-development of a site with restricted access, would result in unsatisfactory standard of residential amenity for the future occupants of the existing house by virtue of insufficient separation distance between the existing house and adjoining access serving two proposed new houses, resulting in loss of privacy which would increase at night time as a result of illumination of headlights from vehicles passing at an angle excessively close to the front wall of the house. The development would therefore be contrary to the proper planning and sustainable development of the area.

2 The Board is not satisfied, based on the submissions made in connection with the application and the appeal, that the proposed development would meet the requirements set out in Table 12.8 of the Fingal Development Plan 2017-2023 with respect of provision of in-curtilage car parking for two cars on each of the three house sites. In addition, it is considered that the site cannot safely accommodate vehicular movement to and from the existing house and accordingly would endanger public safety by reason of a traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia Calleary

Senior Planning Inspector

26th September 2017