



An
Bord
Pleanála

Inspector's Report PL06F.249165

Development	Demolition of 2 no. houses and construction of 12 no. houses and all associated site works.
Location	Carpenterstown Road, Castleknock, Dublin 15.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	FW16A/0170.
Applicant(s)	Victoria Homes Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant(s)	Victoria Homes Limited.
Observer(s)	None.
Date of Site Inspection	23 rd October 2017.
Inspector	Patricia Calleary.

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1.0 Site Location and Description

- 1.1. The site with a stated area of 0.4 hectares comprises two semi-detached single storey cottages with long gardens which are accessed off Carpenterstown road. One of the houses has a large two storey flat roof extension added to its rear and the other has a smaller extension added. The houses are bounded to the rear and sides by mature hedgerows. Castleknock college and associated lands are located to the east (rear) of the site. There are six dormer dwelling houses, 'Sand Holes' development, located to the west of the site, fronting onto Carpenterstown road. A three-storey apartment development, 'Collegefort', is located immediately to the north and is also accessed off Carpenterstown road.
- 1.2. The site is located within a 50km/hr speed limit and Carpenterstown road is a well trafficked route. The M50 motorway is located c.200m to the north west of the site.

2.0 Proposed Development

- 2.1. The proposed development as initially submitted to the Planning Authority would comprise the demolition of the two existing cottages and the construction of 12 no. three story houses including 10 no. semi-detached houses and 2no. detached houses, as well as the construction of 8 no. semi-detached garages, new boundary walls and all associated site works.
- 2.2. The initial proposed site layout provided for a centrally located internal access road with 4 no. three storey houses addressing Carpenterstown Road and two additional rows of houses to the rear. The internal road would be a cul de sac with a non-standard turning area at its end.
- 2.3. The application included shadow analysis drawings for June and December. Further information received by the Planning Authority on 7th July 2017 included a revised site layout plan providing for 10 no. semi-detached and 2 no. detached houses laid out in a row perpendicular to the access road. The Further Information response was accompanied by additional shadow analysis drawings, 3-D computer generated images, a Tree constraints plan, a Tree vegetation protection plan and an Arboricultural Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

3.2. The Planning Authority issued a notification of a decision to refuse planning permission for three reasons which can be summarised as follows:

- **R1:** Insufficient information to demonstrate there is sufficient foul sewerage capacity and that it can be disposed of in an appropriate manner;
- **R2:** Inadequate private open space which would lead to a substandard form of development;
- **R3:** Insufficient quantum and layout of public open space.

3.3. Planning Authority Reports

3.3.1. Planning Reports

3.3.2. The following considerations were put forward following initial assessment by the Planning Officer:

- The principle of the development is acceptable;
- Layout not considered to be of high quality and is dominated by the internal road. The outlook of house nos. 5 to 12 is poor, as these face onto the rear of the semi-detached garages and the three storey height is unsympathetic with the adjacent dormer dwellings on the other side of Carpenterstown road. A revised layout with houses facing onto the access road would be considered more appropriate;
- The design appraisal submitted was considered to be substandard;
- Development meets the residential development management standards set out in Table RD01 and RD03 of the Development Plan;
- Separation distance of 1.8m between the gables of dwellings is less than the required 2.3m under RD19;
- Proposed density of 30 units per hectare, which is considered acceptable;
- Shadow analysis not sufficient;
- Insufficient private open space;

- No public open space provided and therefore a financial contribution will be required in lieu of same;
- Tree survey and landscape plan required;
- Provides a summary of transportation issues.

3.3.3. Following initial consideration, the Planning Authority requested Further Information on matters of amenity, regard to objective OS38 (Private open space provision), Objective RD19 (separation distance) and Objective OS36 (overshadowing) of the Development Plan, details on trees and landscaping, design appraisal, access and transportation and details of water and drainage.

3.3.4. The assessment following receipt of the Further Information response noted the following:

- The open space to the front is poorly considered;
- The shadow analysis is considered acceptable;
- The proposed development is substandard in terms of open private space and does not meet the minimum requirements in this regard;
- Design statement noted and considered acceptable.

3.3.5. The Planning officer recommended that permission be refused for three reasons.

3.3.6. Other Technical Reports

- Water Services – Further information requested initially and following receipt of Further Information, notes that the information requested on surface water details was not submitted. Clarification of further information was requested;
- Transportation – Further information requested initially. Subsequently, no objection subject to conditions;
- Parks & Green Infrastructure – Provision for public open space has not been met and a financial contribution in lieu is not acceptable. In order to rectify this situation, recommends that at a minimum one house should be omitted to increase the open space provision.

3.4. **Prescribed Bodies**

3.4.1. Irish Water – Four reports on file. Initially requested applicant to submit water layout drawing and foul drainage layout, details and engineering design report. Report dated 5th August 2017 expresses concerns and queries elements of the foul sewerage proposals.

3.4.2. **Third Party Observations**

3.4.3. One submission was received from the residents of no.s 1,2,3 and 4 ‘Sand Holes’, Carpenterstown road. Concerns were raised about density, insufficient open space, traffic, noise, dust and light pollution onto existing houses.

4.0 **Planning History**

4.1. Appeal site

- None

4.2. In the vicinity

- F04A/0037 - The most recent permission in the adjoining Colleegefort development relates to modifications to Block 2 (Swift Hall) consisting of an increase in number from 37-46 apartments. (Permission granted on 7th April 2004).

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The Fingal Development Plan 2017-2023 is the applicable development plan for the area. The site is in an area zoned ‘RS’, the objective for which is to provide for residential development and protect and improve residential amenity. The vision for the zoning is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity. There is a specific objective for an indicative cycle/pedestrian route along Carpenterstown Road, to the front of the site.

5.1.2. Chapter 3 – ‘Placemaking’ sets out the design criteria for residential development and the following objective is considered relevant:

- **Objective PM31**

Promote excellent urban design responses to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009).

5.1.3. Chapter 12 – ‘Development Management Standards’ sets out the development management standards and the following objectives and extracts from that chapter are also considered relevant.

- **Objective DMS24** - Requires that new residential units comply with or exceed minimum standards set out in Tables 12.1, 12.2 and 12.3 of the plan;
- **Objective DMS29** - Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units;
- **Objective DMS57A and DMS57B**– Require a minimum 10% of a proposed development site area be designated for use as public open space;
- **Section 12.7 Open Space** (Extract) - Public and/or communal open spaces should be overlooked and designed to ensure that potential for anti-social behaviour is minimised through passive surveillance;
- **DMS59**: Ensure every home within a new residential scheme is located within 150 metres walking distance of a pocket park, small park, local park, urban neighbourhood park or regional park;
- **DMS66** - Ensure open spaces are not located to the side or the rear of housing units;
- **DMS67**- Ensure open space provision is suitably proportioned and inappropriate narrow tracts are not provided;
- **DMS87** – Ensure a minimum open space provision for dwelling houses (3 bedroom houses or less – 60 sq.m and 4 or more bedrooms to have a minimum of 75 sq.m).

5.2. Other Policy

- 5.2.1. Guidelines for Planning Authorities on sustainable residential development in urban areas (DEHLG, 2009) and its companion document, 'Urban Design Manual 2009 – A best practice guidance' (DEHLG, 2009).

5.3. Designated Sites

- 5.3.1. There are designated sites on land within or adjacent to the appeal site. European sites within a 15km radius include North Dublin Bay SAC (Site Code 000206) and South Dublin Bay SAC (Site Code 000210), North Bull Island SPA (Site Code 004006) and South Dublin Bay and River Tolka Estuary SPA (Site Code 004024).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Joe Bonner Town Planning Consultant on behalf of the applicant. A detailed outline of how the site layout evolved and the various proposals provided at pre-planning meetings with the Planning Authority were presented. The appeal was accompanied by a revised site layout drawing (CTMW-PL003) as well as correspondence from Irish Water and an A3 drawing (CTWN-PL021) with an alternative foul sewer layout.
- 6.1.2. The following is a summary of the grounds of appeal, grouped under each of the three reasons for refusal.
- **Refusal Reason No.1 (Drainage)** – Appellant states that they have contacted Irish Water with respect to resolving the drainage issue and that the Authority have set out their position that they are reviewing the network expect to give more details in 3-4 weeks. Request An Bord Pleanála to consult with Irish Water in this regard. An alternative proposal involving pumping of the foul water is put forward for consideration. Requests that one of the options would be deemed satisfactory to the Board and the Planning Authority.
 - **Reason No.2 (Private Open Space)** - Houses are proposed to be three bedroom with a study. In determining that the study room could be used as bedrooms, it is considered that the Planning Authority exceeded its

jurisdiction, having regard to previous case law (Kelly v An Bord Pleanála – summary provided). Reason No.2 is ultra vires. Notwithstanding the above, the appeal includes revised calculations of open space to include the area occupied by the hedgerow along the northern boundary adjacent to ‘Collefort’. This would result in the quantum of open space either exceeding or being close to the required 75 sq.m and in that regard all units are deemed to be four bedroom units. States that other options are open to the Board to deem all units as 3-bedroom or 5 of the units as 4-bedroom houses and the balance as 3 bed houses or all of the units to be either 3-bedroom plus study.

- **Reason No.3 (Public Open Space)** - A revised layout drawing was presented with the appeal showing the proposed entrance located further south and a resultant open space greater than 10% at one single location. A further area has been reserved for a future cycle path in accordance with the stated objective the development plan.

6.2. Planning Authority Response

6.2.1. A response was received from the Planning Authority with the following of note:

- At the time of making the planning decision, there was insufficient information with regard to the existing foul sewer infrastructure and a concern remained that the infrastructure may not have sufficient capacity to cater for the development;
- The proposal for a pumping station is noted, however this further reduces the quantum and functionality of open space proposed and clarification is required as to who would manage, maintain and own the pumping station;
- Should An Bord Pleanála be minded to grant permission, requests that a condition is attached that these dwellings are three bedrooms only with the exception of Unit 12, having regard to the level of private open space proposed;
- The layout and configuration of open space proposed at additional information stage was substandard and non-compliant with Objective DMS67 and as it

was not within 150m walking distance from a pocket park or other park, it was not in compliance with objective DMS59.

- The response requests that An Bord Pleanála uphold the decision to refuse permission. In the event of a grant of permission, requests that a financial contribution would be required and that consideration should be given to the boundary treatment of the site and retention and protection of existing hedgerows.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Introduction

- 7.1.1. The Planning Authority initially assessed the development against the Fingal Development Plan 2011-2017. The current Fingal Development Plan 2017-2023 came into effect on the 16th March 2017. As with the previous plan, the site is located within an area zoned 'RS', the objective for which is 'to provide for residential development and protect and improve residential amenity'.
- 7.1.2. At the outset, the principle of residential development within an area with 'RS' zoning is acceptable subject to it having a satisfactory physical impact with regard to drainage, design, layout and transportation impacts. These aspects of the proposal are assessed in the following sections of this report.

7.2. Foul Water Drainage

- 7.2.1. The Planning Authority was not satisfied that it had been demonstrated that there was adequate capacity in the existing foul sewer network and a concern remained that the infrastructure may not have sufficient capacity to cater for the development. This led to a reason for refusal.
- 7.2.2. The initial layout submitted with the application was accompanied by an engineering services drawing (Dwg No. CTWN-PL008) which showed a proposal for the drainage

to flow by gravity to a holding tank at the rear of the site. It would then be pumped from the holding tank to an existing manhole on the public road (Carpenterstown Road).

7.2.3. Irish Water recommended seeking further information including that the applicant submit the following:

- a water layout drawing details and engineering report and
- a foul drainage layout, details and engineering design report.

7.2.4. The Planning Authority requested further information from the applicant including a foul drainage layout, technical details and an engineering design report. The response was accompanied by a services layout, however, the requested engineering design report or any technical details were not furnished. The layout drawing (Dwg CTWN-PL008 -Rev B) received by the Planning Authority on 7th July 2017 shows the foul water proposed to be directed to a precast concrete holding tank and thereafter would be slowly released to the existing foul water manhole and onto a 150mm diameter foul sewer on Carpenterstown road.

7.2.5. Irish Water's latest report on file, dated 5th August 2017, states that the applicant did not submit a water layout drawing, details and engineering design report as previously required and requested these again. The Authority's observation states that the foul sewerage proposals do not comply with Irish Water standard details and Code of Practice in terms of minimum cover. In addition, the Authority queries the rationale behind the proposed storage tank and pumping station and considers it is not necessarily an acceptable method to address restrictions in the receiving network, which itself is stated to be a 150mm diameter sewer along Carpenterstown Road. Further technical details were also required.

7.2.6. Irish Water also set out that a 150mm diameter foul sewer can accept 20 dwellings under their current code of practice. No information was presented by the appellant on the number of other connections or the capacity for the network to take the additional loading and as stated above, the information required by Irish Water was not furnished.

7.2.7. The appellant stated in the appeal that they had made contact with Irish Water since the planning decision issued and were awaiting a response back, expected in 3-4

weeks (assumably from the date of receipt of the appeal) and requested that the Board would consult with Irish Water in this regard.

- 7.2.8. At appeal stage, the appellant also put forward an alternative foul sewer services layout proposal for consideration (A3 Dwg No. CTWN-PL021 attached to the appeal refers). This alternative proposal would involve the collection of foul wastewater on site and the direction of it to a holding tank positioned to the front of the site and then pumping it via a pumping station to the north along Carpenterstown road under the M50 underpass. It is inferred in the appeal that the adjacent 'Collegefort' apartment development adopted a similar solution. It is stated that the pumping station would have a tank capacity of 43,200 litres to allow for up to 6 days of storage and that the pump would be capable of pumping 7,200 litres per day which would be in excess of the requirements of the proposed development. I note the pumping station would be sited in a secondary area marked 'public open space' as shown on Dwg No. CTWN-PL021 at a point c.15m from proposed House No.1. The final destination, details around volumes of wastewater and capacity of the sewerage infrastructure are not referenced.
- 7.2.9. The appeal was accompanied by appendices which included a copy of an email response to the applicant from Irish Water to the applicant's agent dated 31st August 2017 in which the Authority stated that they had some queries on the content of the enquiry form submitted by the applicant and that they would revert in due course.
- 7.2.10. I note that the information requested by Irish Water has not been furnished by the appellant. In relation to the alternative proposal to introduce a holding tank and pumping station, this is not an enduring option, having regard to issues which arise with long term maintenance, well after the estate is complete. Moreover, the proposal for pumping untreated effluent along an undefined distance to the public sewer network at an unspecified location further north and in the absence of a design would not be acceptable. It has not been demonstrated that Irish Water are satisfied with either the original proposal or the alternative proposal introduced at appeal stage.
- 7.2.11. Having regard to the above, my advice to the Board is that in the absence of technical information demonstrating that the existing foul sewer network has adequate capacity such that the additional sewage which would be generated by the

development could be disposed of in an appropriate and sustainable manner, the development would be prejudicial to public health and should be refused.

7.3. Surface Water Drainage

- 7.3.1. In relation to surface water matters, the Water Services department initially required a surface water drainage proposal, including design calculations, following the principles of SuDS and in compliance with the principles outlined in the GDSDS (Greater Dublin Strategic Drainage Study). A revised services drawing was submitted, however, the requested drainage calculations did not accompany the response.
- 7.3.2. Subsequently, a report from Water Services sets out a requirement for clarification of the further information received and noted the absence of adequate design calculations. Other unresolved issues were also raised including site runoff and minimum cover to pipes. A cross section of the location of the proposed outfall into the existing drainage ditch was also required, however, this was not provided.
- 7.3.3. I conclude that it has not been demonstrated that the surface water which would be generated as a result of the development can be sustainably drained. This in my view should also be included in the reasons for refusal.

7.4. Design and Layout

- 7.4.1. It is evident that the design and layout has been through a number of iterations, at pre-planning stage, during the planning assessment by the Planning and Authority and now at appeal stage. An initial layout presented houses facing West, in an arrangement of three narrow rows. While the front row of houses addressed Carpenterstown road, I would agree with the Planning Authority that the layout represented a poor standard of outlook for future residents of the houses to the rear which would effectively look out towards domestic garages.
- 7.4.2. The design was revised following a request for further information by the Planning Authority. The revised layout presented the houses all facing south, resulting in private amenity spaces located to their north, thus not exploiting solar orientation. The proposal would not offer a positive addition to the identity of the locality or exploit views out of the site or offer any focal point to the scheme.

- 7.4.3. The site by virtue of its limited overall width, is constrained. The prominent feature of the layout is the internal road which runs in front of all the houses. The houses would look onto the internal road and footpath which almost immediately adjoin a heavy hedge marking the extent of the view from the houses. The layout onto the internal road is car dominant and because of its general straight line design is not designed to control traffic speeds and offers a poor sense of place. Proposals to increase efficiency of landuse have not been exploited including the use of communal car parking which I note would not readily fit with the design on the constrained site. The road and parking are hence not designed as part of the public realm.
- 7.4.4. The communal open space while meeting the quantitative requirement is poorly designed and positioned, and is lacking in amenity and biodiversity. It would also lack passive surveillance, as it would not be overlooked but instead reads as a buffer area between the public road and the side boundary wall of House No.1, as an incidental space, rather than one which is owned and safe to use by residents.
- 7.4.5. In conclusion, having regard to the above, I am not satisfied that the development would accord with Objective PM31 which promotes excellent urban design response to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009). I would also concur with the Planning Authority that configuration of the open space is substandard and non-compliant with objective DMS67. It would appear also to be non-compliant with Objective DMS59 as is stated by the Planning Authority that the development is not within 150m walking distance from a pocket park, small park or any larger park. Having regard to the above, I recommend that permission should also be refused on the basis of design and layout.

7.5. Transportation

- 7.5.1. A single access would be formed off Carpenterstown Road, at a point where the speed limit of 50 km/hr applies. Following receipt of further information, the Transportation Planning section were generally satisfied with the proposal, except noting the non-standard turning area at the end of the internal road and they required a swept path analysis to demonstrate that a refuse truck could safely turn. In this

regard, it was considered that a reduction in the number of residential units would be required.

7.5.2. The revised layout received by the Board at appeal stage included some details of the turning circle at the end of the internal road and the manoeuvres of a refuse truck. These are non-standard details and do not include the swept path analysis requested by the Planning Authority. It would be important that refuse trucks and emergency services could adequately turn at the end of the internal estate road in the interest of access and safety. Nonetheless, while this issue is not resolved, I am satisfied that it could be addressed by way of an appropriate planning condition and would result in a reason for refusal. In this regard, should the Board be minded to grant permission, I recommend that a condition would attach to demonstrate by swept path calculation and analysis that refuse and emergency vehicles can undertake safe turning manoeuvres.

7.5.3. The outcome of this process may be such as to necessitate a reduction in the number of houses which the site can accommodate. Otherwise, subject to the attachment of this planning condition in the event of a grant of permission, I do not consider that the development should be refused on the basis of traffic safety grounds.

7.6. Other

7.6.1. Having regard to Objective DMS87 of the Fingal Development Plan 2017-2023, in relation to the requirement of 60 sq.m of private open space for 3 bedroom houses I recommend that the dwelling houses are regulated to remain as 3-bedroom houses with the exception of House No.s 1 and 12 which are designed to have garden sizes greater than 75 sq.m and which therefore could accommodate 4 bedroom houses. This would ensure that the required private open space set out in Objective DMS87 is provided for each house. In this regard, I note that at appeal stage, it was stated that the garden sizes had earlier been miscalculated by the applicant as they did not include the northern hedge boundary. Noting the width of the northern boundary on site and the stated proposals to retain this boundary which I consider to be reasonable, I have based my assessment around useable private amenity spaces as originally submitted which do not include the area occupied by this hedge boundary.

7.7. Appropriate Assessment

- 7.7.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in an urban area and the separation distance 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 or projects on a European site.

8.0 Recommendation

- 8.1. Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made in connection with the appeal and my site inspection, I recommend that permission be **refused** for the reasons and considerations outlined below.

9.0 Reasons and Considerations

1. Having regard to Irish Waters planned investment in water and wastewater infrastructure, and in the absence of sufficient technical information to demonstrate there is sufficient capacity available in the existing foul sewer network or that the foul sewage which would be generated from the development can be disposed of in an appropriate manner, it is considered that permitting the development would not be appropriate and would be prejudicial to public health. Neither has it been sufficiently demonstrated that the surface water which would be generated as a result of the development can be sustainably drained. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its location on a constrained site would result in a poor design and layout which would be dominated by the access road serving a single row of houses with their private amenity space occupying a northerly aspect for the majority of the houses. Consequently,

the development would not accord with Objective PM31 which promotes excellent urban design response to achieve high quality, sustainable urban and natural environments, which are attractive to residents, workers and visitors and are in accordance with the 12 urban design principles set out in the Urban Design Manual – A Best Practice Guide (2009). Additionally, the layout would have inadequate qualitative overlooked open space and would conflict with the provisions of the current Development Plan for the area through stated objectives DMS67 and DMS59. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia Calleary
Senior Planning Inspector

22nd November 2017