



An
Bord
Pleanála

Inspector's Report ABP-300293-17

Development	Demolition of rear garage and construction of a two-storey three-bedroom house with vehicular entrance off a widened laneway
Location	2 Shandon Crescent, Phibsborough, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3769/17
Applicant(s)	John & Gabrielle Naughton
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	John & Gabrielle Naughton
Observer(s)	None
Date of Site Inspection	5 th March 2018
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on Shandon Crescent, a residential street off Connaught Street in the Phibsborough area, approximately 2.2km northwest of Dublin city centre.
- 1.2. The site has a stated area of 194sq.m, with approximately 9.5m frontage onto Shandon Crescent. It contains a two-storey end-of-terrace house with a single-storey flat-roof side extension, as well as a small rear extension and outbuildings. The site contains a c.3.8m deep front garden with one car parking space. The rear garden is approximately 18m to 26m deep and widens towards the rear boundary with a gated private laneway serving the rear of properties along Shandon Crescent. Adjoining to the south is a public laneway serving the rear of properties along Connaught Street and Shandon Drive. The southeast corner of the site contains a garage, which opens onto the public laneway. The boundaries to the site along both laneways are formed by the outbuilding and block walls over 2.2m in height.
- 1.2.1. The surrounding Phibsborough area is characterised by rows of two-storey terraced dwellings of differing eras, fronting onto narrow tree-lined streets and served by laneways to the rear. Shandon Cars commercial premises is located adjacent to the south of the appeal site, with an access off the entrance to the public laneway adjoining the appeal site. Cabra Luas stop is located approximately 60m to the west of the site. Ground levels in the vicinity drop gradually moving southeast.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:
 - Demolition and removal of an outdoor toilet structure and a single-storey garage with a stated gross floor area (GFA) of 28sq.m;
 - Subdivision of the site to form a new parcel, to provide for the construction of a two-storey detached three-bedroom dwellinghouse with a stated GFA of 101sq.m, to feature seamed metal and grey rainscreen cladding, solar panels at roof level and a first-floor terrace area to the southside;

- Removal of a boundary wall to the south, to facilitate widening of a laneway from c.3.5m to 4.8m and the provision of a 3m-wide gated vehicular access onto this widened laneway;
- All associated site works, landscaping and boundary treatments, including a c.3.3m-high boundary wall onto the public laneway.

2.1.2. Accompanying the standard planning application contents, was a copy of the Social Housing Exemption Certificate for the site and a Planning Report, including images of a model study and and a landscape strategy.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse permission for the following reason only:

- Reason No 1: access from a substandard laneway and injurious to neighbouring amenities arising from the overbearing impact and potential for disturbance.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (October 2017) reflects the decision of the Planning Authority. The Planning Officer notes the following:

- To prevent potential overlooking from the first-floor terrace, a 2m-high screen would be provided. However, there are concerns regarding the proximity of the terrace to neighbouring properties and the potential for noise disturbance to arise;
- The minimum standards, as set out in Department guidelines, for a two-storey four-person dwellinghouse, would be exceeded in the proposals;
- A total of 40sq.m private open space is required, and it is proposed to provide c.47sq.m to the rear of the proposed house;
- Distance of between 1.2m and 2m from the proposed house to the east side boundary and adjoining property boundaries (Nos.2 and 4 Shandon Crescent)

would result in overdevelopment of the site and an overbearing impact on surrounding properties;

- The boundary with the public laneway would be set back to widen the laneway to 4.8m and allow two vehicles to pass. The Development Plan requires a minimum carriageway width of 5.5m to serve mews development, where no verges or footpaths are proposed;
- Proposals could set an undesirable precedent for similar development along the laneway and could lead to traffic and pedestrian safety concerns;
- There are also concerns regarding the impact of the development on the amenities of residents in the adjoining 'Z2-Residential Conservation Area' zoned lands.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions;
- Roads & Traffic Planning Division - no objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII) – response states 'no observations';
- Irish Rail – no response;
- Irish Water – no response;
- National Transport Authority – no response.

3.4. Third-Party Submissions

3.4.1. A total of five submissions were received, all from local residents with addresses along Shandon Drive to the northeast of the appeal site, raising the following concerns:

- Use of a public laneway to access the proposed house would not be conducive to the proper planning of the area and precedent for same does not exist. Precedent referred to in the pre-planning correspondence by the appellant relates to developments accessed off primary streets;

- Proposals would be overly-dominant and out-of-character with surrounding housing, and while being beneficial to the applicants, they would lead to an undesirable precedent for similar development along a narrow public laneway;
- Proposed development would not comply with urban design and quality housing policies contained in the Development Plan;
- Proposals would lead to overshadowing of the rear gardens, loss of light and overlooking of neighbouring properties along Shandon Drive. Proposed siting for the house would also have an overbearing impact on neighbouring properties;
- Restricted vehicular access to property along the laneway would result, including service and emergency vehicles access. The immediate area already suffers from parking congestion;
- Proposed widening of the public laneway would result in the security gates to the private laneway being rendered useless, resulting in security concerns;
- Fly-tipping rubbish at the elbow of the bend to the public laneway would not be designed out by the proposals with passive overlooking of the laneway not provided for;
- Discrepancies are noted on the drawings submitted regarding neighbouring building heights;
- Conditions relating to boundary treatments, the security gates, lighting to the laneway and the omission of the terrace are suggested in one submission.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. Between March and May 2017, pre-planning consultation regarding a two-storey mews-style house was undertaken between representatives of the appellants and the Planning Authority under Ref. PAC0248/17. The Planning Authority advised the appellants' representatives of their concerns regarding the potential overdevelopment of the site, provision of access from a substandard laneway, car

parking and overlooking. There have been no other recent planning applications on the appeal site.

4.2. Surrounding Sites

- 4.2.1. There have been numerous applications for domestic extensions in the immediate area, however, I have not been made aware of any recent permissions for infill or mews housing onto the public laneway serving the appeal site and to the rear of Connaught Street and Shandon Drive.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect, provide and improve residential amenities'. It is located approximately 350m outside the 'inner city' zone, as defined in Map K of the Development Plan. Lands immediately to the east have a zoning objective 'Z2 – Residential Neighbourhood (Conservation Areas)' with a stated objective 'to protect and/or improve the amenities of residential conservation areas'. The general objective for these neighbouring lands is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.
- 5.1.2. Relevant planning policies for the proposed development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Policy QH1 of the Plan seeks to build upon and enhance standards outlined in 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), amongst other National Guidelines. Policy QH22 of the Plan is relevant, and this seeks 'to ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise'.
- 5.1.3. Design principles for infill development are set out in Section 16.2.2.2 of the Development Plan. Design standards for houses are set out in Section 16.10.2 of

the Plan and matters to be considered in assessing proposals for backland development, corner/side garden sites and infill housing are outlined under Sections 16.10.8, 16.10.9 and 16.10.10 of the Plan, respectively.

- 5.1.4. In this part of the city a maximum of one car parking space per house is allowed for, based on standards listed in Table 16.1 of the Plan. Section 16.38.9 of the Development Plan outlines 'design criteria' relating to the layout of car parking spaces.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A first-party appeal against the decision of the Planning Authority was received by the Board. The appeal included a revised set of plans that seek to address matters outlined in the Planning Officer's report, the submissions on the application and the reason for refusal. The first-party appeal raised the following:

Background & Rationale

- Provision of an additional house on this site would represent a realistic opportunity for a family member to reside in the neighbourhood;
- Appellants undertook extensive pre-planning consultation with the Planning Authority, which guided the design and layout of the proposed development. Measures were included in the final designs submitted with the planning application to fully address concerns raised by the Planning Authority;
- Detailed rationale for the proposed development is set out in the Planning Report accompanying the planning application;

Access

- Despite the Planning Authority's own Roads & Traffic Planning Division deeming the access to be suitable, the application was refused due to a substandard access;
- Mews-type developments along the public laneway serving the proposed house would be difficult to achieve based on residential Development Plan criteria, zoning restrictions and the length of the access. Consequently, the

proposed development could not be considered to set precedent for mews developments;

Size, Siting & Design

- Proposed house was designed in a manner respectful and sensitive to the surrounding housing, including building height, mass and scaling, setbacks and the maintenance of mature screening;
- Revised plans are offered for the Board's consideration, which the appellants assert would reduce the bulk, scale and mass of the proposed house. The drawings omit the single-storey projection at ground floor, which contained a study room/third bedroom, the proposed house would be set in another metre from the north and east side at first-floor level, the clerestory window feature at roof level would be omitted and the pedestrian gate from the side would be omitted;
- Proposed finished-floor level of the proposed house would be well below that of the neighbouring houses to the north;

Context

- Higher densities are encouraged in proximity to public transport nodes, both within Government Guidelines and the Development Plan, and the Planning Authority's decision is not reflective of this;
- The surrounding Phibsborough/Cabra area has a low residential density and the capacity for utilisation of similar infill sites in the area proximate to Luas stops is extremely limited;

Planning Officer's Report

- Proposed development has been designed to minimise the impact on neighbouring properties and the setback along the laneway would only improve movement within the laneway;
- Materials, including red-brick perimeter wall, and scale with building height matching the eaves height of neighbouring houses would suitably address the site context. Amendments included in the revised drawings submitted with

the appeal, would further reduce the impact of the house and increase the provision of private open space;

- Utilisation of planning policy and standards relating to mews developments would not be applicable in this case;
- Accessibility to the roof terrace can be omitted by the Board, if they so desire, to address the potential disturbance issues raised by the Planning Authority;
- The Planning Authority's logic for setting the ground-floor off the side boundaries is not clear and existing local examples are used to show situations where a building setback from the boundary was not undertaken;
- The restriction of development on the appeal site, in order to prevent theoretical developments on neighbouring properties along the public laneway, would not be equitable, particularly as the appellants consider that such developments would not be achievable;

Third-Party Submissions

- Amendments to the proposals are considered to further address issues raised in all five third-party submissions to the planning application, including concerns regarding the potential for overlooking and overshadowing;
- Proposals would reduce the potential for fly-tipping, as well as anti-social and criminal behaviour, by virtue of the presence of the proposed house, including the surveillance and lighting this would offer onto the laneway.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority response to the grounds of appeal outlines that substantive planning matters and reasons for the Planning Authority decision are outlined in the Planning Officer's report on the application and that this report justifies their decision.

7.0 Assessment

7.1. Introduction

- 7.1.1. The proposed development would comprise a two-storey house to the rear of an end-of-terrace house, bound by a public laneway to the south and a private laneway

to the east. The principle of developing the proposed house on an infill / side garden site on lands zoned 'Z1 - Sustainable Residential Neighbourhoods' is acceptable, subject to planning and environmental considerations addressed below. The applicant has submitted revised drawings for the proposed development, as part of their appeal and, where relevant, I consider these as part of my assessment below. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Access & Parking;
- Impact on Residential Amenities;
- Design & Visual Impact.

7.2. Access & Parking

- 7.2.1. Section 16.10.9 of the Dublin City Development Plan 2016-2022 lists a range of criteria to be assessed for proposed housing in corner/side garden sites, including the character of the area, car parking facilities and the need for safe means of access to and egress from a site. The proposed house would be accessed from a laneway with numerous entrances, the closest of which to the appeal site, would be off Shandon Crescent. This laneway is approximately 3.5m wide at the entrance off Shandon Crescent, where it adjoins entrances to Shandon Cars and the front of the host house. The width of the laneway remains consistent for its entire length, prior to terminating at Shandon Road. The proposed development would remove the existing side boundary wall for a distance of approximately 16m and would set back the frontage to the proposed house from the laneway by an additional 1.3m, thereby widening the laneway to 4.8m. One car parking space would be provided on the appeal site to serve the proposed house, which complies with the Development Plan quantitative standards. The Roads & Traffic Planning Division of the Planning Authority had no objections to the development, subject to conditions including the requirement for the entrance gates not being outward opening and for the details of finishes to the setback area to be agreed with the Roads Maintenance Division. Concerns were raised in the submissions from neighbours to the planning application regarding the potential for the development to restrict vehicular access to

property along the laneway. It was also stated in the submission that the immediate area already suffers from parking congestion.

7.2.2. The Planning Authority's decision to refuse permission for the proposed development included reference to the access to the site being from a substandard laneway and the potential precedent that this would set. Based on submissions on the file and a visit to the site and surrounding area, I am not aware of similar infill (or mews) houses along the public laneway to the rear of houses along Connaught Street and Shandon Drive. Furthermore, I note that the laneway is reasonably well used by properties along Connaught Street and Shandon Drive with garages to accommodate vehicles. Most properties along Connaught Street and Shandon Drive do not have parking in their front garden areas and there are limited on-street spaces. I acknowledge that the Roads & Traffic Planning Division of the Planning Authority considered the proposals to be acceptable, including a setback to the 4.8m-wide laneway fronting the house to allow vehicles to pass. Furthermore, I acknowledge that the house would replace an existing garage and that the proposed development involving an additional house would be likely to attract a small scale of traffic and parking. However, I would have serious reservations regarding the use of the public laneway, to safely and conveniently provide for access and egress from the proposed house. The public laneway, at 3.5m, is narrow and has only been designed as a secondary access to the rear of the host house and neighbouring properties. The closest entrance to the laneway off Shandon Crescent would traverse a footpath and would adjoin the vehicular entrances to Shandon Cars and the front of the host house. There is significant potential for conflict to emerge between vehicular and pedestrian movements at this point, particularly as views of approaching vehicles on the laneway would be restricted from Shandon Crescent. Furthermore, to access or egress the proposed parking space serving the proposed house, a reversing manoeuvre would be necessary onto a narrow and blind bend along the laneway. The widened section of the laneway would be 4.8m deep at the entrance to the perpendicular parking space, whereas 6 to 7m depth would normally be required based on the standards within Section 16.38.9 of the Development Plan. In their assessment, the Planning Authority also refer to minimum laneway widths used when considering proposals for mews development, highlighting that the Development Plan requires a minimum carriageway width of 5.5m, where no verges

or footpaths are provided. I would consider such a width to be reasonable and necessary for the length of the laneway and not just along the laneway to the front of the proposed house. In conclusion, the proposed development would not be provided with a safe means of access to and egress from the appeal site and would result in traffic hazard.

7.2.3. The site is within 60m of the recently opened Cabra Luas stop and I would consider this location to be capable of absorbing a reduced parking quantum for the proposed development. The applicant has not stated whether or not they would be acceptable to a condition omitting the car parking space. Nevertheless, even without a dedicated on-site parking space, the house would to some extent attract additional traffic along the laneway, and my reservations regarding the traffic and pedestrian safety would not be fully appeased by such a condition.

7.2.4. I am therefore not satisfied that the access and egress to serve the proposed development can be accommodated without giving rise to concerns for the safety and convenience of persons using the adjoining laneway and at the entrance to the laneway off Shandon Crescent. The proposed development should therefore be refused for this reason.

7.3. Impact on Residential Amenities

7.3.1. The Development Plan requires proposals for houses in infill /side garden sites to have regard to the impact on the residential amenities of adjacent dwellings. Section 16.10.8 of the Development Plan notes that backland development can cause a significant loss of amenity to existing properties via loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. The Planning Authority's reason for refusing permission was partially based on the impact of the proposed development on neighbouring residential amenities due to the perceived overbearing impact and potential for disturbance. The grounds of appeal assert that the proposed development has been designed to respect surrounding amenities, the pattern of development in the area and follows planning principles that support increased residential densities in proximity to high-frequency public transport corridors.

- 7.3.2. The proposed house would include two windows and a terrace at first-floor level. A window serving the lounge and lobby space at first-floor level would face west towards the rear of No.2 Shandon Crescent, but it is stated that this would contain 'frosted glass to prevent overlooking'. The main window serving the living area would overlook the terrace space and would primarily face south onto a shed to the rear of No.142 Connaught Street and the commercial premises, known as Shandon Cars. This window would be over 28m from the rear elevation of No.142. Design features, such as screen planting and restricted opening louvres, would be incorporated into the perimeter of the terrace, to limit potential for overlooking of neighbouring gardens. The garden to No.2 would be a minimum of c.3.25m from the terrace and the garden to No.57 Shandon Drive would be a minimum of c.4.8m from the terrace. While this would address the potential for overlooking, this would not allay concerns regarding the potential for noise disturbance from the terrace to neighbouring properties. Despite the provision of screening, the elevated nature of the terrace in such close proximity to a neighbouring garden would be likely to be a nuisance to the residents at No.2 and No.57. I note that the appellants have clarified that they would be willing to omit access to the roof terrace should the Board have concerns in relation to this feature. There would be sufficient garden space to the rear to serve as private amenity for future occupants. Consequently, I recommend that this feature should be omitted, if the Board is minded to grant planning permission for the proposed development to protect the residential amenities neighbouring residents.
- 7.3.3. The first-floor rear element of the proposed building would be set off the east side boundary with the public laneway by 1.2m and would be over 3m from the gardens of the nearest properties, Nos.2 and 4 Shandon Crescent. Considering these separation distances, the size and orientation of the neighbouring gardens to Nos.2 and 4, and the buffer formed by the 3.4m-wide private laneway with the garden to Nos.57 and 57a Shandon Drive, I am satisfied that the proposed house would not give rise to undue levels of overshadowing, and permission should not be refused for this reason.
- 7.3.4. The Planning Authority considered that the proposed development would have an overbearing impact from neighbouring properties. The proposed house would be a minimum of c.8m from the rear elevation of the nearest dwelling, No.57a Shandon

Drive and as noted above would be positioned over 3m from the nearest gardens at Nos. 2 and 4 Shandon Crescent. Based on these minimum separation distances and the bulk and scale of the house, I do not consider that the siting of the proposed house would result in an overbearing impact when viewed from neighbouring properties, and accordingly, the proposed development should not be refused for this reason.

- 7.3.5. In conclusion, it is considered that the proposed development would not have a detrimental impact on the residential amenities of neighbouring dwellings by virtue of overshadowing, overlooking or an overbearing impact, but it would have a detrimental impact on the residential amenities of No.2 Shandon Crescent and No.57 Shandon Drive, due to the proximity of the first-floor terrace to these properties and the likely noise disturbance that would arise. Accordingly, the proposed development would be contrary to the provisions set out in Section 16.10.8 of the Development Plan and should be refused for this reason.

7.4. Design & Visual Impact

- 7.4.1. Policy QH21 of the Development Plan seeks 'to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation'. It is noted by the Planning Authority that the proposed development complies with standards relating to internal layout and room sizes outlined in the guidance document 'Quality Housing for Sustaining Communities'. Furthermore, it is also noted that the proposed house would be provided with c.47sq.m private open space to the rear and this would meet the 40sq.m required based on Development Plan standards. Proposals marginally meet the Development Plan standards regarding glazing to habitable rooms. Aspect for the proposed house would primarily be from the north and west at ground floor and from the south at first-floor level.
- 7.4.2. With regard to new houses on infill sites, the Development Plan states that development should respect and enhance its context and should be well-integrated with its surroundings, ensuring a more coherent cityscape. Section 16.10.8 of the Development Plan recognises that development of individual backland sites can conflict with the established pattern and character of development in an area. The relationship of the proposed house with the adjacent dwellings, including the

proposed finished-floor level below that of Nos.2 and 4 Shandon Crescent and Nos.57a Shandon Drive. The general proportions of the new house complement those of the adjacent dwellings, but a more contemporary design, including extensive use of cladding to the elevations of the proposed house would differentiate this from adjacent and neighbouring houses.

7.4.3. It is noted that the appeal site is not provided with any conservation status, but that the area adjacent to the east, including Connaught Street and Shandon Drive, has a zoning objective 'Z2 – Residential Neighbourhood (Conservation Areas)' with a stated objective 'to protect and/or improve the amenities of residential conservation areas'. There is a well-defined and established urban grain in the immediate vicinity with two-storey housing fronting onto narrow tree-lined streets and backing onto service laneways flanked by single-storey outbuildings. I recognise that the first-floor element of the proposed house would be set back 1.2m to 3.2m from the private and public laneways respectively and would be a reasonable distance from neighbouring properties. Nevertheless, I consider that the introduction of a two-storey structure into this cityscape would unduly impact on the character of the area and would form an incongruous addition into this backland area. The revised drawings submitted reducing the height of the proposed house, would not fully address my concerns in this regard.

7.4.4. In conclusion, I am satisfied that the house design and layout would provide for a suitable level of amenity for future occupants, but that the proposed siting of this two-storey house would conflict with the established pattern and character of development in the area, including the adjacent lands zoned 'Z2 – Residential Neighbourhood (Conservation Areas)'. Accordingly, the proposed development should be refused for this reason.

8.0 Appropriate Assessment

8.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that permission is **refused** in accordance with the following reasons, considerations, and conditions.

10.0 Reasons and Considerations

1. Having regard to the existing character and the prevailing pattern of development in the vicinity, the provisions of the Dublin City Development Plan 2016-2022, including the 'Z2 – Residential Neighbourhood (Conservation Areas)' zoning objective for adjacent lands to the east, and the layout, design and siting of the proposed two-storey house, including first-floor terrace, it is considered that the proposed development by reason of noise disturbance would seriously injure the residential amenities of neighbouring properties, in particular those of No.2 Shandon Crescent and No.57 Shandon Drive. Furthermore, it is considered that the proposed development, by reason of introducing a two-storey house into this backland area, would comprise a visually-obtrusive and dominant structure that would be out of character with the established pattern of development and would be contrary to the provisions set out in Section 16.10.8 of the Dublin City Development Plan 2016-2022, including the need to ensure that backland development does not conflict with the established pattern and character of development in an area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the existing pattern of development in the area, the provisions of the Dublin City Development Plan 2016-2022 and the nature and scale of development, it is considered that the proposed use of a substandard laneway, deficient in width, to provide access and egress to the site, would be contrary to the provisions of Section 16.10.9 of the Dublin City Development Plan 2016-2022, which requires safe means of access to and egress from an infill/side garden site and Section 16.38.9, which sets out minimum parking layout standards for development, and would generate a traffic hazard. The proposed development would,

therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

7th March 2018