



An
Bord
Pleanála

Inspector's Report ABP-300345-17

DEVELOPMENT:

Development will consist of the erection of a dormered type studio / hobby workshop (non-commercial) for leisure use and the provision of one car parking space which is to be contained within the boundaries of the site

Location

Site at Greenlea Grove, beside ESB substation, Terenure, Dublin 6W

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

2972/17

Applicant(s)

James and Mark Nolan

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Terenure Road West Residents
Gerry O'Brien and Patricia Stenson
John Caffrey and Fiona O'Reilly

Observer(s)

Seán Leake and Morina Carr

Date of Site Inspection

05/03/2018

Inspector

Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located on the eastern side of Greenlea Grove, a residential cul-de-sac off Greenlea Road, leading to a sports field. The subject site is an irregularly shaped site to the rear of no. 59 Greenlea Road but forms no part of that residential plot. The site is set back from the road and adjoins an ESB sub-station to the south. A utilities box is located in the western boundary wall of the site. Further south of the sub-station are playing fields.
- 1.1.2. Access to the site was not possible. Photographs from the site visits are appended to this report.

2.0 Proposed Development

- 2.1.1. Permission was sought for the erection of a dormered type studio / hobby workshop (non-commercial) of 66.27sq.m. on a site of 41sq.m., which will also contain one car parking space.

3.0 Reports on file following submission of Application

3.1. Third Party Observations

- 3.1.1. A number of objections to the proposed development were submitted to the Planning Authority. The grounds of objection are similar to those raised in the three third party appeals.

3.2. Planning Authority Reports

- 3.2.1. **Roads Traffic Department:** Additional information should be requested regarding ownership of the lay-by area of Greenlea Grove, the proposed construction of columns on the lay-by area and the provision of designated parking for the workshop should be omitted and the area should be reserved for use by service vehicles, and the proposed use of the workshop and any deliveries to same.
- 3.2.2. **Planning Report:** Proposal is highly unusual, with no access, no connection to a residential site and a utility cabinet within the front boundary wall. No information presented on how cabinet would be relocated. Owners do not live adjoining site so use cannot be considered ancillary. Proposed development seems excessive, non-commercial use must be stated in public notices. Access to the remaining three cabinets on site would be restricted due to the almost 100% site coverage. Applicant

should be required to demonstrate that they have ownership of the land between the carriage edge and the wall and that the ESB do not have a right of way over this area. AI should be requested.

4.0 Further Information

4.1. The applicant was requested to provide the following details:

- Proposed use, intensity of use, times of use and accommodation of visitor parking, need for 1.5 storey building
- Details of legal ownership and any right of way, details of existing cabinets and consent from utility provider to move same. Details of how encroachment will be avoided and documentary evidence of satisfaction of ESB Networks regarding the proposed development.
- Details of ownership of lay-by area, omission of columns in lay-by area and reservation of the area as a lay-by by service vehicles, details of deliveries to proposed workshop.

4.2. The applicant responded to the FI request with the following details:

- Building will be used as a recreational hobby area only during leisure hours. No commercial activity
- Applicants will be using building as parking will be at applicants home 84 Greenlea Road, a short walk away. The proposed parking space will be seldom used. The area to the front of the site is often used by the residents of Greenlea Grove. The development is in accordance with the Z1 zoning of the area.
- During discussions with some of the residents, the issue of an up-and-over garage door was discounted as they feared that the garage would be used as a garage repair business.
- The proposed attic space would be used as a small tea station and computer area. The upper floor has been redesigned from 38sq.m. to 28.27sq.m.
- No equipment other than a wood turning lathe will be on site.
- Property Land Registration map submitted showing details of ownership.

- Proposed design would allow all utility vehicles and local traffic to continue to use the space as is at present.
- The ESB hold a right of way to access their utility cabinet out to the edge of the roadway. The proposed development does not hinder their full unobstructed access. Letter from ESB submitted.
- Proposed columns omitted as requested.
- No deliveries proposed
- The subject site has been the location of some anti-social behaviour

4.3. **Planning Reports following submission of AI**

- 4.3.1. **Roads and Traffic:** No objection to the proposed development subject to conditions.
- 4.3.2. **Planning Report:** Proposed 1.5 storey building will be for recreation use only, no commercial element. Proposed development is within 300m of the applicant's home and therefore car trips are reduced. Planner notes ownership details and letter of consent from ESB. Lay-by used by residents of Greenlea Grove. Planner concludes that proposed development can be accommodated in this residential area, that conditions be attached to restrict commercial activity and provide for noise restrictions.

5.0 **Planning Authority Decision**

5.1. **Decision**

- 5.1.1. On the 9th November 2017 the Planning Authority issued a notification of intention to **GRANT** permission subject to 8 no. conditions. Condition no. 2 restricts use of the development to recreational use only and condition no. 3 relates to noise levels.

6.0 **Planning History**

- 6.1.1. No planning history on the subject site.

7.0 Policy Context

7.1. Dublin City Development Plan 2016-2022

- 7.1.1. The subject site is located in an area zoned Z1 Sustainable Residential Neighbourhoods, which has the stated objective 'to protect, provide and improve residential amenities'. Within such zones recreational buildings and uses are permitted in principle.

8.0 The Appeal

- 8.1.1. Three third party appeals against the decision to grant permission were received by the Board in November 2017.

8.2. Terenure West Residents Association

- 8.2.1. The grounds of the appeal can be summarised as follows:

- It is submitted that it is not clear who the applicants are. James Nolan lives at 84 Greenlea Road. His son James Nolan informed residents that he lived outside Dublin and that he had a woodturning hobby. Only James Nolan signed the application form as an applicant, however there is an implication that there may be other users of the development.
- The proposed development is not compatible with the Z1 zoning as it does not protect or provide for residential amenity. The proposed development does not improve residential amenity as the applicant lives either 400m or a considerable distance from the site. It is submitted that the proposed development is inconsistent with the zoning, as a condition was imposed ruling out human habitation.
- The primarily residential area should not have this isolated development that sets an inappropriate precedent and is clearly injurious to the residential amenity of 57 and 59 Greenlea Road, Greenlea Grove. It is submitted that the Planning Authority have ignored the impact on the residential amenity of no. 59.
- The proposed development is quite high, out of character and is visually obtrusive. It should be reduced to a single storey. The proposed hobby would

create inappropriate noise and should be restricted to certain hours. It is submitted that the proposed development is akin to a small scale industrial unit.

- There are safety implications around having a wood turning operation within 2m of an ESB sub-station. Reports of fires at sub-stations submitted with appeal.
- The site also contains utility boxes for Eir and Virgin Media. Technicians for these service providers park in the lay-by when servicing the box. Any damage to the boxes would cause considerable disruption. The appellants note with concern the statement of ESB that they will not be responsible for any issues.
- It is submitted that a security risk exists from the proposed development being unattended for long periods of time.
- Greenlea Grove is extremely busy due to traffic to the rugby grounds, the crèche and the pedestrian link to Templeogue Road. There is a double yellow line on the entire left side of the road. The lay-by at the subject site is used to allow traffic to pass. There is limited visibility from the lay-by.
- The appellants question the ability of the applicant to safely park a car on site while avoiding the ESB substation. It is submitted that the Planning Authority ignored the traffic report of June 29.
- Appendix 1 of the appeal lists the material inaccuracies in the eight documents submitted with the application: Uncertainty as to who will be using the proposed building, site specific information in a generic Irish Woodturners Guild document, reference to parking not being required but parking is proposed, one of the applicants did not sign the application form, no explanation given for proposed shower and kitchen, uncertainty over the legal boundary.
- Should the Board decide to grant permission, they are requested to condition use for woodturning only, a single storey building, omission of the car park, no construction on a Saturday and restricted hours of use.

8.3. Appeal of Gerry O Brien & Patricia Stenson of 59 Greenlea Road

8.3.1. A third party appeal on behalf of the owners and residents of no. 59 Greenlea Road, the dwelling to the immediate north of the subject site has been submitted by a planning consultant. The grounds of the appeal can be summarised as follows:

- Proposed development represents excessive site coverage and over development of the site. The site coverage of the proposed building is 83% which exceeds the development plan standard by 23%.
- The high blank north and eastern elevations will affect the appellant's residential amenity. Photos & Diagrams of impact of proposed development on no. 59 submitted with the appeal. The proposed development with a finished parapet height 4.702m is considerably higher than the existing 2.5m boundary wall. This blank elevation will seriously affect the residential amenity of no. 59.
- The proposed gable fronted elevation is excessive and in conflict with the walling and coping levels along this side of the road. The gable apex is 6.232m, 1.5m higher than the existing front boundary wall.
- The proposed development fails to take account of the prevailing pattern of development in the vicinity. This is contrary to section 16.2.2 of the development plan. The proposed parapet arrangement is very unusual, the proposed windows & doors are residential in character and the finished effect is of a domestic building. Photos submitted. Non-residential, domestic buildings are generally single storey, as recognised by the Planning Authority. They should be set back from the boundary wall, single storey, flat roofed and with consistent materials.
- The applicant's hobby could be accommodated in a much smaller building such as a standard sized garage of approximately 15sq.m. The applicant refers to the need to use the extra space, giving weight to the opinion that there is excess space proposed. The proposed 28.27sq.m. first floor is a major contributory factor to the over development of the site.

8.4. Appeal of John Caffrey and Fiona O'Reilly

8.4.1. The grounds of the appeal can be summarised as follows:

- An application for a dormer studio / workshop was refused on the grounds of inadequate disclosure.
- Greenlea Grove is home to 6no. families with 11 no. children. The road is extremely narrow and also serves a rugby club, recycling facilities and a crèche. The appellant met James Nolan who indicated that the proposed building is for his woodturning hobby and that he lives outside Dublin.
- It is submitted that the proposed development is contrary to the zoning objective to the site. The Planning Authority noted that the proposed development had nothing to do with residential amenity and that the proposed use is not ancillary to the use of a dwelling. The proposed development could set a precedent for isolated developments.
- The Planning Authority noted that the proposed development was highly unusual. It is submitted that it is contrary to policy SC13 of the development plan.
- It is suggested that if the applicant has a place to undertake his hobby he does not need another location. The inclusion of a toilet, shower and full kitchen is queried.
- It is suggested the proposed building could be leased for commercial purposes. This would cause traffic issues, enforcement and management issues.
- It is submitted the proposed development could be rented to a third party for residential use or unauthorised light industrial use. It is submitted that the intended user of the proposed building is not clear with a reference to the applicant "mainly using" the studio.
- The size of the proposed development is sufficient to allow it to be used for residential purposes.

- The proposed plot ratio and site coverage are excessive suggesting overdevelopment.
- Greenlea Grove is a narrow busy residential road where two vehicles cannot pass. The lay-by is critical for traffic safety, particularly at night. There are double yellow lines all along the road. Garda approved traffic measures are included in Appendix 1. The Roads and Traffic Department of DCC raised a number of issues.
- It is submitted that the proposed car parking space would not comply with the development plan standards, would not facilitate a person getting out of the car and would impede access to the utility cabinets.
- Photos submitted showing car parking and the difficulty recognised by the Traffic Department regarding excessive manoeuvres on Greenlea Grove.
- The proposed development will be attached to an ESB sub-station. This involves high risk if flammable materials are to be stored. There is a risk of an electrical fault, flooding, vermin and dust/heat/moisture/vibrations from extensive use. There are numerous examples of fires in substations. The equipment of the public utility ESB must minimise safety risks to the public.
- Three service providers use the utility cabinets on site, involving traffic to the site. Any damage to these services would be significant. The sub-station was set back to facilitate traffic movements to the site. The ESB note that they require full unimpeded access at all times to their facilities.
- The applicant fails to reassure regarding anti-social behaviour, noise, dust, waste disposal. The proposed development represents a health & safety hazard.
- The Board is requested to refuse permission.

8.5. Planning Authority Response

- 8.5.1. The Planning Authority indicated that they would respond to the appeal. No response was received by the Board.

8.6. First Party Response to Third Party Appeals

8.6.1. The response can be summarised as follows:

- The subject site formerly accommodated an old farm house (1800's), then was owned by the ESB and was sold to the applicant in May 2008. Maps submitted.
- The applicants are James and Mark Nolan, the agent is James Martin.
- Woodturning is a family hobby. Leisure activities in the area include the Rugby Club on Greenlea Grove and the Scout Hall at 120 Greenlea Road.
- The proposed development will not overlook or overshadow any gardens. It will be 17m from the rear wall of no. 59 Greenlea Road and have no windows to the side or rear. Valleys will allow the omission of fascia's and soffits, avoiding overhanging.
- No flammable substances will be on site.
- A flat roof was considered unsightly. A pitched roof is more in keeping with the area. There are dormered roofs at the top of Greenlea Grove (photo attached.)
- There is no utility / roadside cabinet on the subject site. There is no authority for technicians to park on private property. Utility companies are welcome to use the applicants parking space.
- The applicant's response to additional information resolved the queries of the Planning Authority, with a grant of permission resulting.
- Ownership issues were resolved in the FI request and through a redesign.
- The Rugby Club traffic management plan works extremely well. A barrier is erected allowing residents to enter and restrict parking. This can be verified with the Rugby Club.
- A condition restricting construction on a Saturday will be complied with if necessary.

- The buildings on Greenlea Grove are higher than the proposed dwelling. There are assorted dwelling designs on Greenlea Grove and therefore the proposed building is not out of character. Photos submitted.
- A previous planning application was invalidated due to an error – leaving the words ‘car parking space’ out of the newspaper notice. The space was shown on the drawings.
- A meeting was held with the resident of 1 Greenlea Grove. Copy of meeting request attached with appeal. The meeting explained the proposed detail and accepted the resident’s submission that a garage door would not be welcome. No request to meet with other residents was received.
- A site notice was removed from the site.
- Appendix 5 shows mid-range saloon parked on site without encroaching on to the public road. If the space can accommodate utility vehicles, it can accommodate a car. Appendix 6 – letter from Eir referring to parking on private property.
- Sanitation / welfare facilities must be provided on site.
- Vermin traces on site are linked to the site being used by youths as a toilet.
- The proposed building is not an industrial unit.

8.7. Other Responses

8.7.1. Response of Seán Leake & Morina Carr in support of the appeal of Terenure West Residents Association:

- Proposed development will sit at end of neighbours garden, at the edge of the VEC playing fields. Proposed development could not fit into any intended development plan. There are no buildings and a double yellow line runs the length of the road.
- The proposed car parking is not feasible as it is 1.804m wide. The average car is 2m wide.

- The proposed development will remove lay-by parking for service providers. Greenlea Grove is serviced by beer delivery trucks, coaches, street cleaning vehicles, waste delivery trucks, and maintenance vehicles for the rugby club.
- The proposed development may be used for commercial purposes. Hobbies can be provided for by other means. It can be sold on, once developed.
- The Council's condition no. 3b refers to mixed industrial and residential areas, which does not refer to the solely residential area.
- Woodturning can generate industrial levels of noise and activity, not suitable for a residential area.
- The playschool and Montessori on Greenlea Grove was formerly used for storage and for the construction of kitchen units.
- The proposed development is not suitable for this location.
- Aerial images provided.

9.0 **Assessment**

9.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant, the planning authority, the prescribed bodies and the Observer's. I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Residential Amenity
- Traffic and Car Parking

9.2. **Principle of Development**

9.2.1. Recreational uses such as that proposed are normally accommodated within the curtilage of a dwelling house, to which the structure is ancillary. This is not the case in the subject application where the proposed woodturning hobby is to be accommodated within 1km of one of the Applicant's home. I note the concern of the

Appellants that the proposed development could be used as a commercial enterprise and the response of the Appellant that it is for recreational use only. Should the Board decide to grant permission, the use of the building for non-commercial purposes can be conditioned.

9.2.2. The provision of a second floor with a shower room and kitchen facilities on the first floor has been raised by the Appellants as a concern. The possibility of the space being used as a residence is also raised as a concern. I share this concern, noting the residential look of the overall structure and the fact that one of the Applicants does not live in the vicinity of the site. I acknowledge that some welfare facilities need to be provided on site, but I query why these were not provided on the ground floor. Given the occasional use of the structure as per the applicant's submission, full-sized facilities would not be required. I recommend that should the Board decide to grant permission that a condition omitting the first floor and the requirement to provide a flat roof to the single storey structure be added.

9.2.3. As can be seen on the photographs taken on site and as confirmed by me on my site visit, there is a small green structure adjacent to the ESB substation. It is not clear what purpose the cabinet serves. Having presumed it was for the other service providers noted by the parties, I note that on page 2 of their response to the appeal the applicant states that there is no utility / roadside cabinet on their property. The uncertainty remains therefore. I note that the applicant has not indicated how he proposes to address the matter of the smaller utility cabinet on site, nor has the cabinet been shown on the existing or the proposed plans. The relocation of the cabinet within or off the site (with the permission of the service providers) is not a material issue and can be addressed by the Board by way of condition, should they decide to grant permission. The developer shall be requested to liaise with the Planning Authority about the solution prior to the commencement of development.

9.3. **Impact on Residential Amenity**

9.3.1. The proposed development will introduce a two storey with pitched roof structure (overall ridge height of 6.2m) to the rear of the Appellants garden (no. 59 Greenlea Road). No windows are proposed for the northern or eastern elevation, so no overlooking of the private open space of no. 59 will occur. Nonetheless, the proposed development would introduce the bulk and mass of a small two storey

dwelling where none existed before. I am satisfied that the visual impact would be significant and would be injurious to the residential amenity of the residents of no. 59 Greenlea Road. I am satisfied that such an injury would be contrary to the zoning objective of the area which is to protect, provide for and improve residential amenity. In such urban areas, single storey garage structures are to be expected in close proximity to dwellings. Likewise, the use of these structures for recreational purposes is a normal, expected part of suburban living. What is not common however is the construction of a stand-alone two storey structure solely for recreational use, at some distance from the main residential property. As noted above, in the interest of orderly development, I have recommended that the proposed development be reduced to a single storey flat roofed structure. It is considered such a revision would also ameliorate any negative visual impact on the Appellants property.

9.4. Traffic and Car Parking

- 9.4.1. I note the submission of the Applicant showing an average sized car parking entirely within the site without causing a hazard on the public road. I also note the letter from one of the service providers acknowledging that parking on private lands must be by way of permission. The existing and proposed car parking space on site will not change - from occasional use by service providers to occasional use by the applicant. I am satisfied that from a traffic management point of view, the existing situation which appears to function well, will not change.
- 9.4.2. The management of Greenlea Grove for traffic on match days etc is not a matter for the Applicant or the Board.

10.0 Appropriate Assessment

- 10.1.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site

11.0 Recommendation

- 11.1. I recommend permission be GRANTED subject to the following conditions

12.0 Reasons and Considerations

Having regard to the pattern of development in the vicinity and the nature, scale and design of the proposed structure it is considered that the proposed development, subject to compliance with the conditions requiring revision set out below, would not seriously injure the residential amenities of neighbouring property, would not unduly detract from the setting of neighbouring structures, would represent an appropriate form of development that would be compatible with its surroundings, and would be acceptable in terms of vehicular safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 13th day of October 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall submit for the written approval of the Planning Authority the following:
 - a) revised plans showing the omission of the proposed first floor and the provision of a flat roof on the resultant single storey structure
 - b) provision for the relocation of the small utility cabinet currently located on the front boundary wall of the subject site.

Reason: In the interest of protecting the visual and residential amenity of the area.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or

replacing them, the use of the proposed development shall be restricted to use as a recreational / hobby studio (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission. The use of the studio for commercial or residential purposes shall not be permitted, unless authorised by a prior grant of permission.

Reason: To protect the amenities of property in the vicinity

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Gillian Kane

Senior Planning Inspector

12 March 2018