



An
Bord
Pleanála

Inspector's Report ABP-300930-18

Development	A new detached two storey house within the grounds of an existing house.
Location	Abingdon, 1A St. Albans Park, Sandymount, Dublin 4
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4287/17
Applicant(s)	Mr & Mrs Fergus Jordan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Mr & Mrs Fergus Jordan.
Observer(s)	Alan Morris and others, Pauline Staunton, Sheena Curneen, Ena Prosser & Frank Miller, John and Anne Parsons, Walter Connor
Date of Site Inspection	21st May 2018
Inspector	Patricia Calleary

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 390 sq.m is part of a larger site which is triangular in shape, containing a house, 'Abingdon', at 1A St. Albans Park in Sandymount, Dublin 4. It is located between the rear gardens associated with houses along St. Alban's Park to the east, Ailesbury Gardens to the southwest and Sydney Parade to the northwest. The existing house on site is a substantial bungalow and the site is accessed via a narrow private laneway, c.100m in length off St. Alban's Park. Electronic gates are fitted at the end of the laneway where it meets St. Alban's Park.
- 1.2. The site is bounded by mature hedgerows to the north and west. The boundary to the east is unmarked and is located between c.4m and 7m west of a 3.5m high hedgerow boundary separating what is currently the bungalow site and houses along St. Alban's Park. The boundary to the south is also unmarked and adjoins the front garden associated with the bungalow.

2.0 Proposed Development

- 2.1. The proposed development would comprise a detached two-storey house of 148.5 sq.m gross floor area (GFA) on a site of 390 sq.m which would be carved out from the overall site containing the existing bungalow, 'Abingdon'. It would be accessed via the laneway which currently serves 'Abingdon'.
- 2.2. The driveway currently serving 'Abingdon' would be relocated to the east and the area currently occupied by the driveway would form part of the appeal site. The house would be two-storey in scale with an asymmetric roof such that it would have a lowered eaves height to the rear. At first-floor level, windows would comprise rooflights along the roof plane at the rear of the house and no windows are proposed on either side/gable wall at this level. The proposed private amenity space would be located to the front (southeast) of the site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a decision to refuse permission for one reason as follows:

- The proposed development for a two storey dwelling house on a backland site would constitute over-development of the site by virtue of its nature and scale and would also be seriously injurious to the residential amenities of adjoining and neighbouring properties. The design and layout would also not provide an adequate level of residential amenity and as such would not be in the interest of proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The subject proposal would yield a dwelling that would be in accordance with applicable residential standards.
- The quantum of private open space would exceed the standards which are set out in Section 16.10.2 of the Dublin City Development Plan.
- As the existing dwelling is centrally located within the site, this restricts the suitability of the site for additional development as it would require positioning of the proposed dwelling in the front garden of the existing dwelling.
- The proposed two-storey dwelling would be at odds with the existing single storey dwelling on the site.
- Single aspect layout would not provide sufficient level of residential amenity for future occupants.
- Site is located within an area designated as 'Flood Zone B' and suitability of site has not been tested in this regard.
- Recommended a refusal of permission.

3.2.2. Other Technical Reports

- Drainage Division: Request for additional information recommended.
- Roads and Traffic Planning: Request for additional information recommended.

3.3. Prescribed Bodies

- No referrals

3.4. Third Party Observations

- 3.4.1. A large number of observations were received by the Planning Authority. The contents are summarised in the Planning Officer's report. Drainage, flood risk, residential amenity and site access were cited as the principal concerns. The issues raised are also raised in the observations received by the Board and considered under Section 6.3 below.

4.0 Planning History

4.1. Appeal Site

- **PA Ref: 2446/05** – Planning permission was granted by Dublin City Council (2005) for a single storey extension to the rear, conversion of car port and garage to hall, sunroom and bedroom and a new garage entrance to the front of existing house at Abington, St. Albans Park. (Inspectors note: This development relates to the existing bungalow and as noted during my site inspection, the permitted development has not been carried out).

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The appeal site is situated in an area identified within the Dublin City Development Plan 2016-2022 as having a land-use zoning objective 'Z1 - Sustainable Residential Neighbourhoods', with a stated objective 'to protect, provide and improve residential amenities'. The following provisions are considered relevant.

- Policy QH22 - 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.
- Section 16.10.2 (Residential Quality Standards – Houses) - Houses shall comply with the principles and standards outlined in section 5.3 ‘Internal Layout and Space provision’ contained in the then DEHLG ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007).
- Section 16.10.8 (Backland Development) - Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. Backland development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.
- Section 16.10.9 (Corner/Side Garden Sites) – Includes criteria for which the Planning Authority will have regard to in assessing development of corner/side garden sites. These include character of the street, compatibility of the design with adjoining dwellings, impact on residential amenity of adjoining sites, open space and refuse standards for both existing and proposed dwellings, appropriate car parking, landscaping and maintenance of building standards where appropriate.
- Chapter 5 – Flood Management Objectives including:
 - Objective SIO8 - All development proposals shall carry out, to an appropriate level of detail, a Site-Specific Flood Risk Assessment (SSFRA).

5.2. Other Policy and Guidance

5.2.1. Other policy documents which are considered relevant include:

- Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- DEHLG and OPW Guidance 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009).
- DEHLG guidance 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received by Peadar Nolan Architect, representing the applicants. It was accompanied by a report prepared by David Jenkins Consulting Engineers entitled 'Notes on Infrastructure and Strategic Flood Risk Assessment for planning appeal' and was accompanied by appendices and photographs. The following is a summary of the principal matters raised in the grounds of appeal.

- Site is not a typical backland site, where such are normally more restricted and are characterised by houses closer together which is not the case with the current proposal.
- Separation distances between upper floor windows are in excess of 22m and no overlooking or noise disturbance would result.
- Mature screen planting would remain.
- Proposed house meets the required residential standards.
- When taken individually or in conjunction with the existing house on the adjoining site, the proposed house would not constitute overdevelopment and it would be barely visible from the public road.
- Given the orientation of the existing house, there would be no loss of amenity to this existing house as a result of the new house.
- Gate at end of the laneway / along the public road is electronically managed and priority would be given for vehicles entering the property. There is sufficient space to accommodate traffic associated with the development.

- Proposal would not be seriously injurious to the residential amenities of the adjoining and neighbouring properties.
- The site has not flooded since 1963 and only flooded then because of an extreme rainfall event coincided with a lightning strike on a pumping station.
- House does not constitute overdevelopment and would not be seriously injurious to the residential amenities of the adjoining and neighbouring properties.

6.2. **Planning Authority Response**

6.2.1. No response to the grounds of appeal was received from the Planning Authority.

6.3. **Observations**

6.3.1. Observations on the appeal were received from six parties. The collective principal points raised are summarised as follows:

- Development is proposed on a site that has a high risk of flooding and it would exacerbate flooding problems which have been experienced in the area.
- Would give rise to overlooking onto adjoining properties.
- Would alter the character of the area.
- Access is not sufficient to accommodate emergency vehicles.
- Foul sewer gradient and overall design are deficient, unworkable and would likely result in the backup of sewage in a flood situation, resulting in a health hazard and exacerbating the existing flood risk of the area.
- Would be seriously injurious to the residential amenities of the surrounding houses, including the existing bungalow.
- Would be visually dominant and overbearing.
- In the event of a grant of permission, no future development should be permitted, roof windows should be moved to a higher position to prevent overlooking.

- Traffic concerns raised by the Roads and Traffic Division were not addressed by the applicant.
- One of the observations was accompanied by a Technical note prepared by JBA Consulting which commented upon the Flood Risk Assessment prepared by the applicants' representatives, which it submits is not complete, as it does not identify residual flood risk. In addition, it asserts that the drainage proposals are insufficient.

7.0 Assessment

7.1. Introduction

7.1.1. The proposal is for the development of a two-storey house with a GFA of c.148.5 sq.m. It would be located on a backland site, within the garden of an existing substantial bungalow which itself was developed centrally on the original site behind established housing on St. Albans Park, Ailesbury Gardens and Sydney Parade.

7.1.2. The main planning issues which arise in this appeal relate to the following:

- Principle of the Development
- Residential Amenity
- Drainage and Flood Risk
- Access and Traffic
- Appropriate Assessment Screening

7.1.3. My considerations of each of the above issues are set out in my assessment under their respective headings below.

7.2. Principle of the Development

7.2.1. The proposal is for a detached two-storey house within what currently functions as a front garden of an existing bungalow, in an area having a land-use zoning objective 'Z1 - Sustainable Residential Neighbourhoods' in the Dublin City Development Plan 2016-2022. Under such a zoning objective, infill dwellings are permitted subject to meeting certain criteria set out under Section 16.10.9 (corner/side garden sites) of

the Plan. In addition, an infill dwelling is required to meet residential quality standards set out under Section 16.10.2 of the plan and plot ratios and site coverage provisions, as set out under sections 16.5 and 16.6 respectively. Section 16.10.8 (backland development) is also relevant.

- 7.2.2. The proposed house would largely meet the residential standards set out under 16.10.2 of the Development Plan and Section 5.3 (Internal Layout and Space Provision) of the DEHLG guidance 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). Private open space would be provided to the front of the proposed house. Notwithstanding this, as referenced above, the proposal also needs consideration against other provisions of the development plan referenced above including character of the street/area, compatibility of the design with adjoining dwellings and impact on residential amenity of adjoining sites.
- 7.2.3. Unlike the existing bungalow on site, the proposed house would be two storey in height and would be overly constrained, positioned very close to adjoining boundaries to its rear. It would be largely single aspect save windows to be provided at high level along the roof plane to its rear. It would appear cramped and would not integrate well or be compatible with the existing development, as it would read as being retrofitted into the front garden of the existing bungalow on site. In this regard, it would fail to respect the established pattern and character of development in the area.
- 7.2.4. By reference to the provisions of Section 16.10.8 (backland development) and that the development would not meet a number of criteria set out under Section 16.10.9 (corner/side garden sites) and detailed above, I recommend that permission should be refused. I have dealt with the issue of residential amenity directly below.

7.3. Residential Amenity

- 7.3.1. The proposed dwelling would be well separated from the neighbouring houses, but would lie close to the neighbouring rear site boundaries of houses located to the north and west. Specifically, its rear/northwest elevation would be c.3m from the site boundary with No.27 Sydney Parade Avenue and its western elevation would be

c.1.8m from the boundary with No.25 Sydney Parade. It would also be c.7.9m from the front garden space associated with the existing bungalow.

- 7.3.2. The house design is presented as mainly single aspect with roof windows set at a height above 1.8m at first floor level to the rear (north). This serves to avoid issues of overlooking onto adjoining gardens associated with the houses at No.s 25 and 27 Sydney Parade and as such I am satisfied that no overlooking would occur onto these properties. First-floor windows to the south east vary between a distance of 6m and 10m from the driveway, car parking and front entrance associated with the bungalow. However, given the proposed orientation, these would not directly overlook the front curtilage of the house. Some indirect overlooking is likely however, given the separation distance, the orientation of the proposed house angled away from the front garden of the adjoining bungalow and the fact that the house would not overlook any private amenity space, this is considered acceptable. For similar reasons, I am equally satisfied that no unacceptable issues regarding overshadowing would result. The proposed dwelling while two-storey in scale cannot be considered overbearing, having regard to the larger footprint of the adjoining bungalow and the two storey scale houses which surround the site.
- 7.3.3. Overall, notwithstanding that I have referenced concerns regarding the character of the area under Section 7.2 of my assessment above, I am satisfied that the development would not give rise to unacceptable impacts on the residential amenity of the adjoining bungalow or the other adjoining properties in the area. Accordingly, I do not recommend that permission should be refused for reasons of residential amenity.

7.4. Drainage and Flood Risk

- 7.4.1. Two of the main issues which arose in this appeal as raised by observers include matters of drainage and flood risk. During its consideration of the application, the Drainage Division of Dublin City Council recommended seeking additional information and also recommended that permission should be withheld until satisfactory information was submitted and approved. Specifically, it required a flood risk assessment to be submitted for the proposed development, identifying risks from sources of flooding including coastal, fluvial, pluvial flood risk and groundwater and including the effects of climate change, together with mitigation proposals. Further

technical details were required for the proposed soakway design and confirmation of the suitability of the soil for the design of the soakway. Ultimately the Planning Authority did not seek further information but instead issued a notification to refuse permission for a reason not relating to flood risk or drainage.

- 7.4.2. The appeal included a technical note, entitled 'Notes on Infrastructure and Strategic Flood Risk Assessment' which stated that based on the Office of Public Work's (OPW) flood record maps (floodmaps.ie) there was a single record of flooding on the site in June 1963 and that this occurred because of exceptional circumstances where due to a lightning strike, a pumping station failed. It is submitted that the site is located in an area known as 'Flood Zone B' and does not rely on flood defences and that an infill house would be appropriate.
- 7.4.3. One of the observations was accompanied by a Technical Note on Flood Risk, prepared by JBA consulting. It asserts that the site is located in 'Flood Zone A' and is at a high risk of flooding and that it benefits from defences on the River Dodder.
- 7.4.4. By reference to the Strategic Flood Risk Assessment (SFRA) contained in Volume 7 within the Dublin City Development Plan 2016-2020, the site is shown to be located in a 'Flood Zone B' area. Flood Zone B relates to lands where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding).
- 7.4.5. Notwithstanding the technical information submitted by the first party at appeal stage, no Flood Risk Assessment was received by the Planning Authority or the Board on appeal. This is contrary to Objective SIO8 where all development proposals are required to carry out to an appropriate level of detail, a Site-Specific Flood Risk Assessment (SSFRA). In relation to surface water management, no soil suitability tests were evidently carried out to inform the design of the proposed soakaway. These are reasonable requirements which remain outstanding. In the absence of such key information, I recommend that permission is refused on the basis that the Board cannot be satisfied that the stormwater generated can be sustainably drained in accordance with the requirements of the Greater Dublin Regional Code of Practice for Drainage work or that the site when developed would

not exacerbate flood risk of the area contrary to guidance set out in 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009).

7.5. Access and Traffic

- 7.5.1. Access to the site would be along an existing narrow private laneway, between 2.8m and 3.0m in width and c.100m in length. During the course of their consideration of the planning application, the Roads & Traffic Planning Division sought further information, including details of how traffic would be managed to avoid a situation where vehicles would reverse onto St. Alban's Park. The appellant was requested to consider proposals for the provision of a passing bay within the application site and to submit an autotrack analysis which would demonstrate that there is sufficient turning space within the driveway/parking area of the proposed dwelling to enable vehicles to exit the site in a forward gear. Ultimately, no formal request for further information issued from the Planning Authority as instead a decision to refuse planning permission issued.
- 7.5.2. In their appeal, the appellant submits that priority would be given to incoming vehicles by using an electronic warning system whereby a red light would be activated when the electronic gates are opened and that this light would be visible to the existing and proposed houses.
- 7.5.3. In terms of traffic which would be generated, I am satisfied that this would not be excessive in the context of one additional house. While no autotrack analysis has been submitted, there is evidently sufficient space for cars to enter and turn within the appeal site. The remaining concern is traffic meeting along the laneway which could lead to reverse manoeuvres onto St. Alban's Park. I consider the red-light electronic warning system proposed would be impractical and there would be no way of ensuring it would remain in place and in working order for the life of the proposed house which is a matter of maintenance. Instead, I recommend that, should the Board be minded to grant permission, an area for holding traffic is provided at the point where the lane meets the main appeal site area. This would assist in ensuring no reversing manoeuvres onto the public road would be necessary, as cars intending to exit along the laneway could reverse into the holding/passing area instead. This detail could be secured by a planning condition in the event of a grant of permission. While it would be preferable if such a passing bay were to be located along the lane

itself, I recognise that this is not possible due to the absence of lands in the applicants' ownership outside of the narrow lane itself.

- 7.5.4. Subject to the provision of such a holding/passing bay for motor vehicles, I am satisfied that given the development would generate low levels of traffic which would be acceptable and permission should not be withheld for reasons of access and traffic.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the minor nature of the proposed development, the location 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.

8.0 **Recommendation**

- 8.1. I recommend that permission is **refused** based on the following reasons and considerations.

9.0 **Reasons and Considerations**

- 9.1. The proposal to add a two storey house within the front garden of an existing bungalow on a backland site would appear overly constrained and would fail to respect the existing character of the surrounding area. Furthermore, in the absence of key information on soil suitability where soakways are proposed and the absence of a Flood Risk Assessment in an area identified as being at a moderate risk of flooding, the Board cannot be satisfied that the stormwater which would be generated can be sustainably drained in accordance with the requirements of the Greater Dublin Regional Code of Practice for Drainage work or that the site when developed would not exacerbate flood risk of the area contrary to guidance set out in 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009). The proposed development would lie contrary to both the provisions of the Dublin City Development Plan 2016-2022 and to national flood

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

Patricia Calleary
Senior Planning Inspector

31st May 2018