



An  
Bord  
Pleanála

## Inspector's Report ABP-301051-18

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<b>Development</b>	Demolish garage Shed. Construct 3 houses
<b>Location</b>	Lands to rear of 77, Pinewood Crescent, Glasnevin, Dublin 11
<b>Planning Authority</b>	Dublin City Council Nth
<b>Planning Authority Reg. Ref.</b>	4418/17
<b>Applicant(s)</b>	CNG Development Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	CNG Development Ltd.
<b>Observer(s)</b>	Daniel & Yvonne Cassidy
<b>Date of Site Inspection</b>	23/07/18 & 31/08/18.
<b>Inspector</b>	John Desmond

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## 1.0 Site Location and Description

- 1.1. The application relates to the curtilage of a semi-detached residential property, comprising an inner-corner site of 1472-sq.m (0.1472ha) within a suburban housing estate dating from around the 1960's, in north Dublin, c.500m north of Glasnevin Avenue. This corner site is irregular in shape, with an extensive rear garden extending over 60m from the rear of the dwelling, apparently far larger than any other properties within the estate, and with a relatively generous space of over 6m between the dwelling and the neighbouring property boundary to the northeast. Its front garden is approximately 9m in length, similar to neighbouring properties, but with a narrower frontage than most, at <8m.
- 1.2. The site slopes down to the rear by c.1m. The rear garden contains a shed located c.12m to the rear of the dwelling. There is a paved concrete access drive to the shed from the public road, with a 3m high steel gate at the side of the house. The remainder of the garden has been left go wild. The site boundaries are demarcated by bare concrete block walls of up to 1.8m (estimated), with most, if not all hedging and trees visible along the boundaries being located outside of the site.
- 1.3. The application site abuts the side boundary of similar semi-detached residential properties to the south and northeast, and to the rear boundary of similar properties to the west. To the north it abuts the rear garden of a terraced dwelling.

## 2.0 Proposed Development

- 2.1. It is proposed to erect 3no. dormer type dwellings (described as 1no. 2-bed and 2no. 3-bed dwellings) to the rear of the existing dwelling with a total floor area of 437-sq.m stated area. The existing shed / garage (55-sq.m) is to be demolished.
- 2.2. Supporting documentation
- *Flood Risk Assessment* prepared by JBA Consulting
  - *Engineering Drainage Report* prepared by OBA Consulting Civil & Structural Engineers

- *Certificate under Section 97 Planning and Development Act 2000 (as amended).*

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

**REFUSE** permission for 1no. reason on grounds of overbearing that would seriously injure the amenities and depreciate the value of property in the vicinity.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The report is consistent with the decision of the Planning Authority. The report considered the development to be overdevelopment having regard to the immediate context and pattern of development in the area, notwithstanding that site coverage and plot ratio were below the standards under the CDP.

##### **3.2.2. Other Technical Reports**

Road Planning Division (24/01/18) – No objection subject to 5no. conditions, including a non-standard condition requiring retention of a tree in the public pavement.

Drainage Division (04/01/18) – No objection subject to 9no. conditions, including non-standard conditions (i) requiring pre and post construction CCTV survey on the existing public storm sewer running adjacent the rear of the site and any other public sewers affected by the proposed development, with a 3m setback from the sewers, no additional loading to be placed on the sewers and any damage thereto to be rectified at the developer's expense; (ii) requiring a comprehensive survey of all drainage services within the site with drainage details to be approved and (iii) requiring all flood risk mitigation measures proposed by JBA CE in the FRA document November 2017 to be implemented.

#### **3.3. Third Party Observations**

16no. letters of objection received from residents of Pinewood Crescent (except where otherwise stated): Philip Webb of no.101, Paul & Anne Marie Conkey of

no.16, Beatrice Glynn & Joe Bambrick of no.75, Bernard & Patricia Sherry of no.67, Kevin Mulligan & Bairbre Webb O'Maolagain of no.71, Margaret Walsh of no.79, Patricia Martin of no.79, Mr & Mrs Ellis of no.83, Bridie Webb of no.18, Noel & Vera Travers of no.69, John Davis of no.73. Willow Park Road - Brid Coates & David Moher of no.98, Yvonne & David Cassidy of no.106, Christine Lynch of no.102, Paddy Christie of no.100. Noel Rock TD.

The mains areas of objection:

- Flooding / drainage issues on the site; underground stream, River Wad; disputes applicant's flood assessment – local residents were not consulted
- Excessive height and massing
- Traffic hazard – dangerous bend; inadequate parking; access for refuse collection; impact on and exacerbation of traffic associated with St Michael's House facility opposite
- Pressure on local drainage infrastructure; existing problems with sewers; need for pump
- Refusal under reg.ref.1963/06; 3644/16
- Impact on residential amenities, overbearing, security issues, noise, overlooking, overshadowing, light pollution, out of character and depreciation of property values contrary to zoning Z1
- Misleading information about vandalism on site;
- Development description concerning house type; lack of measurements on plans
- Lack of consultation by developer
- No CMP
- Undesirable precedent for similar

## 4.0 Planning History

**PL29N.247620 / Reg.Ref.3644/16** – Permission **REFUSED** by the Board (05/04/17) for the development of 4no. houses on this site upholding the decision of the

Planning Authority. The 1no. reason related to serious injury to amenities and depreciation of value of property in the vicinity arising from overlooking and overbearing.

## 5.0 Policy Context

### 5.1. Development Plan

Dublin City Development Plan 2016-2022

Z1 zoning objective *'to protect, provide and improve residential amenities'*.

S.16.10 Standards for Residential Accommodation: S.16.10.2 Residential Quality Standards - Housing

S.16.10.8 Backland Development

S.16.10.9 Corner / Side Garden Sites

S.16.10.10 Infill Housing

### 5.2. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA Site no.004024 (c.5.2km to the southeast)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main grounds of appeal submitted by The House Architects on behalf of CNG Developments Ltd, are as follow:

- The proposal was designed as three bungalows without dormer following pre-planning consultations with the Planning Authority which raised concern about overbearing.
- Concern that a public meeting convened by the Public Information Unit during the public consultation period, which is extremely unusual for such a minor

application, and of which the applicant was not notified, was used as a vehicle by objectors to stir public resistance.

- Accords with Z1 zoning, policy QH8 and sections 16.10.8 and 16.10.10 of the CDP 2016-2022.
- Will not result in an overbearing impact on neighbouring properties, as evidenced by similar permitted development by DCC, with hipped roof design ideal for backland location
- Within plot ratio and site coverage limits for Z1 zone
- Mitigating impact of ground level difference
- Having regard to Planner's Report there is no issue with principle, access and sight lines, parking and emergency access, flood risk or drainage design, development contribution to apply in lieu of public open space, no adverse overshadowing, private open space standards achieved, and exceeds internal space standards.
- Similar backland development permitted in the Glasnevin area shows the proposal is well within the established norms for backland development density and overbearing and cannot be considered over development on the basis of CDP standards.
- Dwelling design is incomparable to previous proposed development refused permission on this site, with considerable reduction in risk of overbearing. See Sheet #4 Overbearing Comparative Study.
- Configuration, shape/orientation and separation distance (31m) from existing dwellings mitigates any potential for overlooking, with obscure glass where necessary.
- 25m separation distance between dwellings cannot be considered overbearing. Comparison between proposed development and previously permitted infill development (drawings 1605-1/ABP001 to 1605-1/ABP004) purport to show that the flanking walls to the gardens have a greater impact than the ridge height.

- The Planning Authority has frequently permitted 900mm / 1m setback from boundary and sometimes directly adjacent, resulting in relatively greater overbearing. Planning register reference numbers and synopsis provided for 12no. development sites where, it is submitted, overbearing is greater than in this case.
- If the Board is mindful to grant permission, a condition limiting the ridge height to 7m above FFL might be considered appropriate to further mitigate potential overbearing.

## 6.2. **Planning Authority Response**

No further comment.

## 6.3. **Observations**

Daniel & Yvonne Cassidy (106 Willow Park Road). The main points generally repeat points already made in submissions to the application and concern the following issues:

- Layout and backland nature – backland development facing onto the back elevations of existing housing is totally out of step with existing.
- Proximity – far nearer the neighbouring dwellings than existing. Inadequate space.
- Precedent – submits that similar development could take place at rear of no.75 and 79.
- Flooding – All gardens from 96 to 108 WPR have experienced flooding after heavy rain near the rear boundary walls. Culverting the Wad River has not resolved this issue and it will be exasperated by the proposed development creating blockage.

## 7.0 **Assessment**

The main issues arising in this case can be dealt with under the following headings:

### 7.1 Policy / principle



- 7.2 Impact on established character
- 7.3 Impact on residential amenities
- 7.4 Roads and Traffic Issues
- 7.5 Flooding and drainage
- 7.6 Appropriate assessment

### 7.1. **Policy / principle**

- 7.1.1. There is no issue with the principle of residential development on lands zoned Z1. According to s.16.10.8 backland development may be considered on its own merits, subject to consideration of conflict with the established character of the area, significant loss of amenities and possible blocking of access such as would inhibit the development of a larger backland area. The Planning Authority raised no issue with the issue of possible blocking of access and therefore I would accept that this is not a significant issue in the context of this site.

### 7.2. **Impact on established character**

- 7.2.1. The proposed dwellings by reason of their design and location behind the existing line of dwellings to Pinewood Crescent, at a significant distance from the public road, would have very little visual impact on the established streetscape, or on the character of the area.
- 7.2.2. The proposed entrance and access road to the development, in addition to the proposed new entrance to and hard-surface parking for the existing dwelling from the public road would, in my opinion have a negative impact on the character of this suburban area through the removal of the boundary and the extent of hard-surfacing to the front of the site. It would also likely necessitate the removal of the roadside tree.
- 7.2.3. Should the Board decide to grant permission I would suggest that a condition be attached requiring the proposed vehicular access to the front of the existing dwelling to be omitted and with any vehicular access to that property to be via the proposed access lane to the northeast, with the roadside boundary wall to be retained to the

front of the existing dwelling except at the lane entrance (see also s.7.4 Roads & Traffic Issues).

### **7.3. Impact on residential amenities**

- 7.3.1. I am generally satisfied that the proposed development, by reason of its design and layout, including proposals for obscure glazing at first floor level side elevations (southwest and northeast elevations for dwellings F2 and F3; southern elevation dwelling E4), will not unduly adversely affect the amenities of neighbouring residential property in terms of overlooking. I would advise that the rooflights on the SW facing roof slope to F2, the NE facing roof slope to F3 and on the southern, western and eastern facing roof slopes to E4, which are secondary fenestration, be required to have a minimum internal cill height of 1.6m in order to protect the amenities (sense of privacy) of the existing properties.
- 7.3.2. I am satisfied that the proposed development will not have an excessive impact on neighbouring amenities in terms of overbearing, overshadowing (shadow study diagrams submitted with application noted) or otherwise. The appellants submitted that, if the Board is mindful to grant permission, a condition limiting the ridge height to 7m above FFL might be considered appropriate to further mitigate potential overbearing. I do not consider this to be necessary.

### **7.4. Roads & Traffic Issues**

- 7.4.1. The Council's Roads Division raised no concern about the proposed development on traffic safety grounds. The proposed development would not have a significant impact in terms of additional traffic generated within Pinewood Crescent, although it would increase the level of travel accessing this site, which will be influenced by the level of car parking provided on site.
- 7.4.2. Whilst the proposed access and road layout was acceptable to the Roads Division, I consider the layout to be heavily dominated by the vehicular access. The access is, in part, a shared surface, ranging in width from 4.8m to 5.4m, but with pedestrian pavements at the northern end. Having regard to the small-scale nature of this backland residential scheme (and short length of the access road), in view of the current road standards - *Design Manual for Roads and Streets* (2013) – a shared-

surface is appropriate and desirable as movement priorities are low and place value is relatively high. The provision of separate pedestrian pavements in the northern section is unnecessary and adds to confusion about priorities for use of such streets as an amenity for residents. The maximum width for shared-surface streets is limited to 4.8m under DMURS. The layout of the access should be amended solely as a shared surface, in accordance with the standards under DMURs, for the agreement of the Planning Authority.

7.4.3. The proposed site layout plan indicates 2no. cars parked per dwelling (existing and proposed), but there is space for at least 3no. cars to the front of dwelling F3 and possibly for 4no. cars to the front of E4. The site is within parking zone 3 (Map J) where a maximum standard of 1.5 spaces per dwelling applies. The site is well-located relative to existing and proposed future public transport improvements (bus and metro) and therefore the parking of developments in this area should be limited to no greater than Development Plan standards, which are maximum standards according to s.16.38 Car Parking Standards. No more than 6no. parking spaces should be provided to accommodate for the existing and proposed, whether through communal / shared and or private parking spaces. The layout of the scheme should be revised in accordingly, subject to the agreement of the Planning Authority.

7.4.4. As noted above, the proposed new direct access to the public road for the existing dwelling is unnecessary and will detract from the pedestrian facilities within Pinewood Crescent. The front boundary to the private area remaining with the existing dwelling should be retained, with vehicular access to that dwelling to be provided via the proposed backland access lane only, the details of which should be agreed with the Planning Authority.

## 7.5. **Flooding and drainage**

7.5.1. The applicant submitted a FRA with the application. No, or minimum fluvial and groundwater risks are anticipated in the FRA, which I consider reasonable based on the information on file and available online which indicates that the site is within flood risk zone 3 where residential development is acceptable according to the flood risk management guidelines.

- 7.5.2. The FRA acknowledged and accepts third party submissions concerning pluvial drainage issues on the site and on neighbouring gardens. The FRA confirms that the site was found to be at risk of a pluvial flood event in DCC's flood mapping produced for the Flood Resilient City Initiative, although given the very low-resolution of the pluvial map, I would query that the FRA can conclude that *'the flood map indicates a pluvial flow pathway across the south east section of the site where the proposed driveway and single property will be situated'*. The FRA notes a slight slope across the site from SE to NW and that the presence of the block wall to the northern and western boundary will inhibit surface water flow from the site and could result in localised ponding. S.4.2.2 submits that the block boundary wall and raised access level from Pinewood Crescent will prevent inflow of surface water from Pinewood Crescent and neighbouring properties but will also restrict surface water egress from the site, which suggests the proposed development will not adversely affect neighbouring properties in terms of pluvial flood risk.
- 7.5.3. Mitigation measures to address pluvial flood risk are set out under s.4.3 and comprise a storm-water system designed in accordance with GSDS guidance, with incorporation of SUDS, with discharge to the surface water sewer within Pinewood Crescent (see drawing no.C02 submitted with application). The details were acceptable to the Council's Drainage Division.
- 7.5.4. Regarding drainage proposals, the Drainage Division raise no objection subject to standard and non-standard conditions, including incorporation of SuDS and attenuation of surface water limiting runoff to 2l/s. Non-standard conditions (no.4 in Drainage Division report) related to surveys of storm water drainage infrastructure running adjacent the north of the site and within the site, and implementation of the FRA mitigation measures. The Drainage Division conditions stipulate that a clear distance of 3m be maintained between the sewer and all structures on site. There is no drawing showing the location of the said storm sewer, but as the proposed dwellings are no closer than 6m from the northern boundary, this should not present any difficulties for the proposed development.

## 7.6. **Appropriate assessment**

- 7.6.1. Having regard to the relatively small-scale nature of the proposed development, which is located within a built-up area at a significant distance from the nearest

European site (South Dublin Bay and River Tolka Estuary SPA Site no.004024 c.5.2km to southeast), it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly, individually or in combination with other plans or projects on any European site. I consider no Appropriate Assessment issues to arise.

## 8.0 Recommendation

8.1. I recommend that permission be **GRANTED** subject to the conditions under section 10.0 below.

## 9.0 Reasons and Considerations

Having regard to the nature, scale, location and layout of the proposed development, it is considered that proposed development would not seriously injure the amenities of property in the vicinity in terms of overbearing, overlooking, overshadowing or otherwise, would not depreciate the value of property in the vicinity, would be consistent with the zoning objective pertaining to the site, Z1 “*to protect, provide and improve residential amenities*’ and with the provisions of the Dublin City Development Plan 2016-2022, and would be in accordance with the proper planning and sustainable development of the area, subject to compliance with conditions set out below.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. The cill height of the rooflights to the southwest facing roof slope to dwelling F2, to the northeast facing roof slope to dwelling F3 and to the southern, western and eastern facing roof slopes to dwelling E4 shall be at least 1.6m above first floor level.

Reason: To protect the amenities of neighbouring residential property.

3. Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority, revised drawings and details amending the development as follows:

- (i) The existing roadside boundary wall to no.77 Pinewood Crescent shall be retained in situ except at the access lane entrance to the public road, which shall be limited to 4.8m in width and shall comprise a shared-surface area, with the remaining space integrated into the private residential space or as soft landscape space, except as strictly necessary to accommodate vehicular turning movements.
- (ii) The vehicular entrance to the site remaining with existing dwelling house shall be via access lane serving the proposed development.
- (iii) No more than 6no. car parking space shall be accommodated within the application site to serve the existing and proposed dwellings.
- (iv) The existing footpath and kerb shall be dished at the entrance to the public road to the standard required by the planning authority.

**Reason:** To comply with the DMURS standards for shared-surfaces and with the car parking standards and policy of the Dublin City Development Plan 2016-2022 and in the interest of proper planning and sustainable development.

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: In the interest of public health.

5. (i) The developer shall carry out a pre-construction CCTV survey and a

post construction CCTV survey of the existing storm water sewer which runs adjacent to the rear boundary of the site and of any other public sewers affected by this development. A copy of the pre-construction survey shall be submitted to the planning authority for its written agreement prior to the commencement of development. A copy of the post-construction CCTV survey shall be submitted to the planning authority for its written agreement prior to first occupation of any of the proposed dwellings. Any damage to the sewers concerned shall be rectified at the developer's expense prior to first occupation of the proposed dwellings.

- (ii) The exact location of the storm water sewer to the north of the site shall be accurately determined by the developer onsite prior to the commencement of construction.
- (iii) No additional loading shall be placed on the storm water sewer to the north by the proposed development.

**Reason:** In the interest of proper planning and sustainable development.

6. The flood mitigation measures proposed in the Flood Risk Assessment report by JBA Consulting Engineers (November 2017) shall be implemented in full.

**Reason:** To mitigate flood risk arising from the development of this site.

7. All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development shall be at the expense of the developer.

**Reason:** In the interest of clarity,

8. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Roads Streets and Traffic Department and the Noise and Air Pollution Section.

**Reason:** To ensure a satisfactory standard of development.

9. Site development and building works shall be carried out only between the hours of 0700 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:** To safeguard the residential amenities of property in the vicinity

10. Public lighting shall be provided in accordance with the requirements of the planning authority, if any, and shall be provided before the first occupation of the proposed dwellings.

Reason: In the interests of amenity and public safety.

11. 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.

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John Desmond  
Senior Planning Inspector



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5<sup>th</sup> September 2018