



An
Bord
Pleanála

Inspector's Report ABP-301545-18.

Development	Dwelling.
Location	No. 2 Collegewood, Carpenterstown Road, Castleknock, Dublin 15.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	FW18A/0027.
Applicant(s)	Aine Keegan.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Aine Keegan.
Observer(s)	None.
Date of Site Inspection	12 th July 2018.
Inspector	Karen Kenny.

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1.0 Site Location and Description

- 1.1. The site is located to the side of No. 2 Collegewood, Castleknock, Dublin 15. Collegewood is a relatively recent housing development that is located to the north of the Carpenterstown Road and west of College Road in Castleknock.
- 1.2. Permission is sought for a dwelling in the side garden area of no. 2 Collegewood on a site of c. 0.0315 hectares. The site is bounded by residential properties to the north and east and by playing pitches to the south (St. Vincent's College lands). There is a private access lane to the rear that extends to College Road, through the grounds of St. Vincent's College. There is no access onto this lane from the appeal site.
- 1.3. The appeal site is accessed from the Carpenterstown Road at a location that is c. 800 metres south west of the appeal site and the internal estate road terminates in a hammerhead to the front of the site.

2.0 Proposed Development

- 2.1. Permission is sought for a two and a half storey detached dwelling in the side garden of No. 2 Collegewood. The dwelling is a 5 bedroom house with a stated floor area of 176 square metres.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for the following reason:

Under condition no. 3 of permission previously granted under planning authority register reference number Reg. Ref. F00A/0854 (ABP Ref. PL06F.124586) the subject site is reserved to allow for a continuation of the access road to the site boundary and to provide for a future link eastwards to College Road. The proposed development of this site would materially contravene this condition and would

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

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planning Officer's Report considers the planning history pertaining to the site.

3.2.2. Other Technical Reports

Transport: No objection.

Parks: No objection.

3.3. **Prescribed Bodies**

Irish Water: No objection.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1.1. The following planning history relates to the Collegewood Development:

ABP Ref. PL06F.124586 / P.A. Ref. F00A/0854: Application for residential development of 366 residential units. Permission granted by the Planning Authority. This decision was subject to third and first party appeals to An Bord Pleanála. An Bord Pleanála granted permission. The following conditions of the permission are of note:

Condition no. 3. In the event that planning permission is granted for development on the residential zoned lands to the south and access to area B is secured through that site to College Road, the vehicular link between areas A and B shall be severed. A pedestrian link shall however be maintained. House numbers 1 to 3 shall be omitted and the adjoining access road shall be continued to the boundary of the site. Revised drawings showing compliance with

this requirement shall be submitted to the planning authority for agreement before commencement of development.

Reason: In the interest of the proper planning and development of the area.

- Condition no. 4. Details of the proposed pedestrian and bicycle access to College Grove including details of the pavement to link with existing footpaths shall be submitted to the planning authority for agreement prior to the commencement of development. This access way shall be provided prior to the occupation of the first dwelling unit within the site. **Reason:** In the interest of residential amenity, traffic safety and accessibility to existing transport and community facilities.

Permission was granted for alterations to house types and apartment blocks under P.A. Ref. F02A/0580, P.A. Ref. F03A/0410 and P.A. Ref. F03A/1035.

- 4.1.2. The following planning history relates to the appeal site and lands in the immediate vicinity.

ABP Ref. 06F.206036 / P.A. Ref. F03A/1543: Application for construction of 2 no. 3 storey detached houses (inc. no. 2 Collegewood). Permission granted by the Planning Authority. This decision was subject to a first party appeals to An Bord Pleanála. An Bord Pleanála granted permission.

P.A. Ref. F08A/0772: Application for infill dwelling to the side of no. 2 Collegewood on the appeal site. Permission was refused by the Planning Authority. There were 2 no. reasons for refusal. Reason no. 1 stated that the development would materially contravene condition no. 3 of the parent permission. Reason no. 2 stated that the development would result in a substandard form of residential development.

ABP Ref. PL06F.231929 / P.A. Ref. F08A/1151: Application for infill dwelling to the side of no. 2 Collegewood on the appeal site. Permission was refused by the Planning Authority. This decision was subject to a first party appeal to An Bord Pleanála. An Bord Pleanála refused permission for one reason. The reason for refusal stated that the development would materially contravene condition no. 3 of the parent permission.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Fingal County Development Plan 2017-2023 is the relevant statutory plan.

- The appeal site is zoned RS 'Residential' with an objective to "provide for residential development and protect and improve residential amenity".
- Objective PM44 encourages the development of underutilised sites in existing residential areas subject to the protection of amenities, privacy and character, while objective PM45 promotes contemporary and innovative design in such areas.
- Objective DMS39: New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.
- Objective DMS40: New corner site development shall have regard to:
 - Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
 - Impact on the amenities of neighbouring residents.
 - The existing building line and respond to the roof profile of adjoining dwellings.
 - The character of adjacent dwellings and create a sense of harmony.
 - The provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain.
 - Side/gable and rear access/maintenance space.
 - Level of visual harmony, including external finishes and colours.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been received in respect of the decision of the Planning Authority to refuse permission. The grounds of appeal can be summarised as follows:

- Condition no. 3 of the original permission for the Collegewood development sought to reserve the appeal site free from development to provide for a future link to College Road to the east.
- The grounds of Castleknock College to the south were zoned for residential development at the time of the original grant of permission. The zoning changed to 'high amenity' in 2011. Condition no. 3 sought to reserve land to provide for a future vehicular link to new residential development. There is now no prospect of the lands being development for residential purposes or of a vehicular or pedestrian link being provided through the grounds of Castleknock College. In the event that the adjacent lands are developed in the future the existing access road runs to the College grounds and can provide a future vehicular and pedestrian link to those lands.
- Fingal County Council granted permission for no. 2 and no. 3 Collegewood in February 2004. On appeal (ABP Ref. PL06F.206036) the inspector recommended that permission be granted for the proposed development for the primary reason that it left enough space in reserve to allow for the future vehicular link. In refusing permission for an infill dwelling on the appeal site under ABP Ref. PL06F.231929, the inspector stated that it was reasonable to expect that the adjacent lands to the south would be developed for housing, as they were subject to a residential zoning. This zoning no longer exists.
- It is no longer appropriate to reserve the site due to changes in circumstances and Fingal County Council have failed to consider the changed circumstances.
- Collegewood has an existing pedestrian access to College Road through College Grove. A further access would provide no material benefits.

- The site is under the control of the applicant who does not wish to develop a vehicular or pedestrian link on her land. Short of initiating a CPO process, a vehicular or pedestrian link cannot be delivered. There is no objective in the Development Plan or on the land use zoning map for a road connection at this location. The Transportation section of Fingal County Council had no objection to the development.
- The development is consistent with the relevant planning policy including the NPF, the Regional Planning Guidelines, Guidelines for Planning Authorities on Sustainable Development in Urban Areas (2009), and the Fingal County Development Plan 2017-2023. It is designed to fit in with neighbouring properties, observes building lines, will not result in overshadowing or significant loss of daylight for adjacent properties and will benefit from large areas of private rear and side garden space.
- It is considered inappropriate to refuse permission for an infill development on the appeal site due to an outdated planning condition, which is no longer relevant to the proper planning and sustainable development of the area. If an access is required to the lands to the south in the future this can be facilitated through an extension of the existing estate road in Collegewood, which has been taken in charge by Fingal County Council.

6.2. Planning Authority Response

- The site is located adjacent to an access road to the east. This appears to be a former farm entrance associated with Castleknock College and is c. 200 metres from College Road providing potential for direct access to Castleknock Village.
- While it is noted that the lands in Castleknock College are zoned High Amenity, a future change of zoning cannot be discounted, hence the importance of reserving this land for a potential future route at the very minimum, a pedestrian or cycle route.
- The proposed development would entirely remove the option to facilitate this access route and would limit the potential permeability between Collegewood

/ Collegefert and College Road and Castleknock Village, which is not in the interest of proper planning and sustainable development.

- The reference to the NPF is noted with regard to compact growth, however another strategy of the 10 National Strategic Outcomes is sustainable mobility.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. Permission is sought for an infill dwelling adjacent to no. 2 Collegewood. The development comes forward on land that is zoned for residential development. I consider the proposed house to be well designed and to be of a nature and scale that would integrate well with existing development. Furthermore, the development would exceed the minimum development plan standards in relation to internal space, private open space, car parking and privacy and is acceptable from an access and drainage perspective, subject to conditions.

7.1.1. This appeal relates to a decision to refuse permission for an infill house for one reason, which states that the development would contravene condition no. 3 of the original permission for the Collegewood housing development. The reason for refusal is the main issue for consideration in the appeal in my view.

7.2. **Reason for Refusal**

7.2.1. The original Collegewood development (c. 362 dwellings), was described in initial plans as two distinct areas: - Area A near the Carpenterstown Road and Area B near College Park. The subject site is located in Area B. It is close to College Road but has no direct vehicular access onto College Road and is served via a long circuitous road from the Carpenterstown Road entrance.

7.2.2. There is a private access lane associated with Castleknock College immediately adjoining the subject site to the east that accesses onto College Road c. 200 metres to the east of the site. The ABP inspector's report for the original development noted

that this would provide a convenient alternative access to Castleknock rather than the circuitous route via Carpenterstown Road. The inspector envisaged that the subject site and adjoining sites of nos. 2 and 3 be kept free from development so that in the future, vehicular access could be provided more directly onto College Road and that this would allow the internal estate road from Carpenterstown Road to be severed at a point within the development.

- 7.2.3. Consequently condition 3 of the Board's order (2002) under ABP Ref. PL06F.124586 is as follows:

“In the event that planning permission is granted for development on the residential zoned lands to the south and access to area B is secured through that site to College Road, the vehicular link between areas A and B shall be severed. A pedestrian link shall however be maintained. House numbers 1 to 3 shall be omitted and the adjoining access road shall be continued to the boundary of the site. Revised drawings showing compliance with this requirement shall be submitted to the planning authority for agreement before commencement of development.”

- 7.2.4. Permission was subsequently granted by Fingal County Council and by the Board (ABP Ref. PL06F.206036 / P.A. Ref. F03A/0854) for the construction of 2 no. detached dwellings in place of the 3 no. dwellings that were omitted by condition no. 3 (no. 2 and 3 Collegewood).

- 7.2.5. In 2008 two applications were made for an infill dwelling on the appeal site. The Planning Authority refused permission under the first application (P.A. Ref. F08A/0772) and no appeal was made to An Bord Pleanála. Under the second application An Bord Pleanála upheld a decision of the Planning Authority to refuse permission for an infill dwelling (ABP Ref. PL06F.231929 / P.A. Ref. 08A/1151). The inspectors report stated that the subject site should remain free of further development, at the very least, for the purpose of providing a pedestrian access point and cycleway to College Road over the longer term.

- 7.2.6. The grounds of appeal argue that changes in circumstances since the original grant of planning permission and the previous refusals on the appeal site, mean that condition no. 3 is outdated and that there is little or no merit to reserving the appeal

site free from development. It is argued that the link was to be provided in conjunction with the development of the Castleknock College lands to the south which were zoned for residential development at the time of the original grant of permission. I would note that the zoning changed from 'residential' to 'high amenity' in the 2011-2017 Development Plan and that this zoning is retained under the current 2017-2023 Development Plan. It is argued that the lands are unlikely to be developed and that even if the lands were to be developed in the longer term, that the access lane runs to these lands and that future access can, therefore, be provided. It is further argued that the need for a more direct pedestrian link to College Road is met via an existing pedestrian link to College Grove that is situated to the north of the appeal site (adjacent to no. 18 Collegewood) and that there would be no material benefit from a pedestrian link through the subject site.

- 7.2.7. On the basis of the assessment set out in the inspector's report under PL06F.124586 it would appear that the purpose of Condition no. 3 was to maintain a reservation for a future vehicular link between Collegewood and College Road. It would appear, on the basis of the wording of the condition, that it was envisaged that the link would materialise in conjunction with the development of lands to the south.
- 7.2.8. The grounds of appeal argue that circumstances have changed since the original grant of permission. In this regard I would note that the vehicular reservation provided for under Condition no. 3 of the original permission has been compromised by the provision of dwellings no. 2 and 3 Collegewood. I am of the opinion that the retained garden of no. 2 Collegewood is not sufficient to accommodate a vehicular link based on the design standards set out in the Design Manual for Urban Roads and Streets (2013) without taking in additional lands. I would also question the suitability of this corner for a pedestrian or cycle connection, due to the now isolated position of the side garden.
- 7.2.9. The response of the Planning Authority argues that the zoning of the college lands could change in the future and that it is important to reserve this land for a potential future route. It also states that the development would entirely remove the option to facilitate the access route and limit potential permeability between Collegewood, College Road and Castleknock Village. I would not concur with this view. The access lane to the east extends into the college lands and can provide access to these lands. There is also potential to create a connection between the College

lands and Collegewood at the point where the internal estate road extends to the college boundary. I am, therefore, of the view that the subject site does not represent the sole means of providing improved access between Collegewood and College Road or to the Castleknock College lands.

7.2.10. The appeal site is now part of a private residential property and the grounds of appeal argue that the only mechanism to acquire this site would be through a Compulsory Purchase Order. In this regard, I would note that there is no objective in the Development Plan for a vehicular, pedestrian or cycle link at this location. The adjoining access is also a private access lane and there is no suggestion of a public right of way or agreement in relation to access over the lane. I would also consider the 'high amenity' zoning of the lands to the south to represent a materially change to the circumstances that pertained when condition no. 3 was applied and to reduce the likelihood of a link being provided.

7.2.11. I would concur with the applicants view that circumstances have changes since the original grant of permission. Permission has been granted for development on adjoining sites that, in my view, compromises the vehicular link that was envisaged by condition no. 3 of the original permission. The zoning objective pertaining to the lands to the south at the time of the original permission promoted residential development and it was expected that the link would emerge in conjunction with this development. The lands are now subject to a 'high amenity' zoning that limits the development potential of these lands. In addition, the appeal site is now in private ownership and I am of the view that the likelihood of a connection emerging at this location is remote, and that alternative options are available should the adjoining lands to the south come forward for development in the future. On this basis I recommend that permission is granted.

Appropriate Assessment

7.2.12. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced urban area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that permission is granted subject to the conditions set out below.

9.0 Reasons and Considerations

9.1.1. Having regard to the location of the site in Castleknock and the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Fingal County Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenity.

3. Proposals for a name / house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house

numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

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. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

6. All necessary measures shall be taken by the contractor including wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of works.

Reason: To protect the amenities of the area.

7. The vehicular entrance serving the proposed development shall comply with the requirements of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8. 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.

Karen Kenny,
Senior Planning Inspector

17th August 2018