



An
Bord
Pleanála

Inspector's Report 302519-18.

Development	House to rear of existing medical centre with access from re-positioned vehicular entrance at Kinvara Road.
Location	263 Navan Road, Dublin 7.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3325/18.
Applicant	MED Family Clinic.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant	MED Family Clinic.
Observers	1. Denis Barry. 2. TII.
Date of Site Inspection	9 th December 2018.
Inspector	Mairead Kenny.

1.0 Site Location and Description

The site is located at the northern side of the Navan Road, a major arterial road in north-west Dublin city. The road is lined with detached, semi-detached and on occasion short terraces of two-storey houses. The site location is characterised by its proximity to a major open space/sports grounds and to its corner location at the junction of Navan Road and Kinvara Avenue.

The stated site area is 205 m². The site defined for the purpose of the application comprises part of the rear garden of number 263 Navan Rd, a substantial former dwellinghouse, which appears now to be entirely in commercial use including ground floor consultancy practices (GP, dentist, physiotherapy). I accessed part of the ground floor medical practice at the time of my inspection. I noted from its external appearance that the first floor use appeared to be in commercial use but residential use cannot be discounted as I did not gain access to the upper floor.

The rear garden is served by way of a vehicular entrance. Under the proposed development the majority of this would be outside of the site of the proposed development. There is a gated laneway to the north of the site.

2.0 Proposed Development

- 2.1. The stated floor area of the proposed three-bedroom two-storey detached house is 143 m². The site would be accessed by way of a re-located vehicular access which is built into the proposed flat roofed 29 m² garage, the front façade of which would adjoin the footpath. A 62 m² rear garden is provided for. There would be a proposed pedestrian entrance at the front.
- 2.2. The description of development includes provisions for all services, landscaping and boundary treatment. The boundary wall of the laneway would appear to be intended to be removed to provide the dwellinghouse.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for a reason which referred to:

- Overbearing impact on residential amenity of occupiers of a number of dwellings at Navan Road in particular number 261.
- Future occupiers who would experience high degree of overlooking of rear garden from neighbouring dwellings.
- Seriously injure amenities of property. Precedent. Contravene development plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report includes the following comments:

- Acceptable in principle subject to compliance with standards.
- Character of Kinvara Avenue would not be adversely impacted. Form and design of dwelling is considered generally consistent.
- Building line set by existing building at 263 Navan Rd.
- Removal of tall hedge would result in dwellinghouse being exposed in views and constituting **very prominent and overbearing feature** in views from rear gardens. 5m from common boundary with no. 261 - overbearing impact.
- Provides an **appropriate quantum of open space** (62 m²) and there is sufficient space to provide for bin storage on the site. Regarding quality and usability of that private open space its depth at 5m is low and the eastern boundary wall is approximately 1.5 m high. The result is that the garden area would experience high levels of overlooking from neighbouring properties along Navan Road. The **quality of open space with therefore be poor**. A garden area of more than 60 m² would be retained for the existing building.
- Potential impact on roadside tree. No landscaping proposals. A planning condition could be attached.
- Not considered that amendments would address concerns.

3.2.2. Other Technical Reports

The report of the **Drainage Division** indicates no objection subject to prior detailed agreement with the planning authority.

3.3. Prescribed Bodies

TII report refers to requirement for payment under **LUAS contribution scheme**.

3.4. Third Party Observations

Denis Barry, 261 Navan Rd

Objection is based on:

- Breach of building line.
- Inadequate site size for house of this scale - site depth not same depth as others.
- Garden level significantly below footpath. Rear boundary wall only 1,500mm.
- The obligation under previous permission to provide **parking for 3 no. cars** on the site still applies. Application fails to refer to this other than in terms of closing off the vehicular gates.
- Insufficient separation. Will impact and enjoyment of our property particularly when the ground level changes are considered.
- There should be no windows to the rear of the proposed house.

Ann Mooney, 2A Kinvara Avenue

This refers to:

- Height and proximity to my house at 2A Kinvara Avenue - overshadow front.
- Window at side would overlook my front garden and main access.
- Impact on drainage.
- Possible impact on foundations of my house.
- Breach of the building line on Kinvara Avenue.

Gary Monk and Sheila Purcell, 259 Navan Road.

Breach of building line. Already issues with customers at the medical practice parking illegally on the footpath. Extra dwellinghouse will increase danger to

pedestrians. Submitted plans do not appear to reflect depth of site of 2A Kinvara. Complete overlooking of our house and adjacent.

4.0 Planning History

Under reg. ref. 3065/17 and application for retention of various works was made. This refers to the attic level, provision of a single story entrance lobby to the existing surgery, hard surfacing of the car parking and widening of vehicular access at Navan Road, signage. There is no reference in the planner's report to the use of the rear garden. The application drawings show a back garden. The total floor area of the medical practice was given as 197m². I note that the number of parking spaces to the front is not clear. Under condition 6 it was a requirement that within six months landscape scheme for the front driveway incorporating sustainable urban drainage would be agreed with the planning authority.

Previous applications include:

- Permission for kitchen extension, nurses dressing area and internal alterations and parking to the rear (reg. ref. 3991/99). There is a requirement that the off-street parking area accommodate a minimum of at least three cars. A further condition stated that use of the portion of the dwellinghouse as a surgery shall be limited to the duration of ownership of the main premises by the applicant. Thereafter the entire premises including surgery extension shall revert to entirely residential use.
- Permission for modifications to side extension entrance and alterations to existing doctors surgery (reg. ref. 0901/93).

5.0 Policy Context

5.1. Development Plan

Under the provisions of the **Dublin City Development Plan** policy related to corner sites is in section 16.10.9. This refers to specific criteria including character, compatibility of design and scale, impact on residential amenities, open space and

other standards, provision of landscaping and boundary treatments and maintenance of front and side building lines where appropriate.

Car parking for 'Clinics and Group Practices' in zone 2 /3 is two per consulting room. The site is within zone 3. Indicative bus transit route identified at Navan Road.

Requirement for housing quality include the standards set in section 16.10.2.

No conservation objectives related to the site or the immediate surroundings.

Policies relating residential development and sustainable densities include:

- Ensure new housing is adaptable and complies with national guidance – QH13.
- Ensure new house provides for the needs of family accommodation – QH 21.
- Promote sustainable densities particularly along transport corridors – SC13.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the first party appeal are:

- No rear windows at first floor level - there is no overlooking of back gardens.
- Precedent cases which we consider relevant include 1A and 2A Kinvara Avenue. Both houses have first floor windows overlooking back gardens.
- The language in the decision including the words unacceptable and overbearing are unfair in light of existing build houses which are similar.
- Any issues could have been addressed by way of a request for further information and a refusal of permission is far too severe decision.
- Option for a dormer design, which would address any issues of overbearing.
- There are a number of letters of support from local residents.
- We provide more material on the precedent cases and photographs.

- The level of opposition from neighbouring houses is of surprise. There is no desire to devalue any property. Comprises a simple domestic type dwellinghouse similar to existing in terms of massing, bulk and finishes.
- Enclosed copy of drawing of application submission.

6.2. Planning Authority Response

No detailed response has been received.

6.3. Observations

6.3.1. Denis Barry

Observation submitted on behalf of the owner/occupier of 261 Navan Rd is:

- In 2015 applicant purchased house and operates a medical practice.
- We are exercising our statutory entitlement to object to the proposal, which will decrease the value of and enjoyment to our family home.
- There is the perception of overlooking as a result of the frosted glass windows. This glazing cannot be guaranteed to be frosted permanently.
- Requirement for increasing ground level, which will result in views to the ground level windows of the proposed house. Window and double doors to rear of the proposed house will be 1,450mm above the height of the current boundary wall which would give rise to substantial overbearing and overlooking.
- Size and scale of house and proximity to boundary wall will hugely impact our enjoyment of our residents. 16.10.9 of the development plan refers.
- Policy SC13 requires that sustainable densities include consideration for protection of surrounding residents. The decision to refuse is correct.
- Breach of building line at Kinvara Avenue. That is the relevant building line.
- Site area is inadequate for this size of house.
- Boundary wall between No. 261 and 263 is only 1500mm. queries relating to drainage and to structure of boundary wall to contain raising of site level.

- Precedent cases are dissimilar.

6.3.2. Transport Infrastructure Ireland

TII refer to the requirements for a contribution under LUAS supplementary scheme.

7.0 **Assessment**

I consider that the main issues arising in this case may be considered under the following headings:

- Impact on existing and future residential amenities.
- Parking arrangements for the medical practice.

Residential Amenities

Regarding the residential amenities associated with the future house I agree with the planning authority that there are a number of matters of concern. I note the appellant's identification of a failure by the planning authority to request revised drawings. Having considered the matters identified in the planner's report including the comment that landscaping and storage details could be addressed by condition, I have not been able to conclude that there is a fundamental constraint associated with this site. As such the nature of the issues identified in the planner's report and the decision of the planning authority may be capable of satisfactory resolution.

The first deficiencies relates to the overlooking of the private amenity open space associated with the proposed house. In view of ground levels and boundary wall heights it was considered that the rear garden area would be overlooked and lack amenity value, notwithstanding that the size overall was deemed to be adequate. It is not possible based on the information to conclude exactly what relationship there would be between the top of the windows and the level of the boundary wall, but I agree that the matter is of concern and the proposal is unsatisfactory.

While there is reference to the 5m depth of the garden, I consider that the overall size and shape of the rear garden could provide for the residential amenity of future occupants subject to details being addressed.

Prior to any grant of permission however, I agree with the general thrust of the decision of the planning authority that taking into account the site level and the detail of boundary walls, there would be considerable overlooking of the rear garden. I consider it appropriate that this matter be resolved prior to any permission being granted. Having regard to the orientation of the rear of houses at Navan Road, the rear of any proposed house and associated garden would be likely to be significantly overlooked.

Regarding the view into the ground level (rear) of the proposed house, this also requires careful consideration of ground levels, boundary wall heights and landscaping.

I consider that the issues raised above in terms of the future occupants' residential amenity are capable of resolution. The Board may wish to consider if revised drawings are warranted in this respect.

Regarding the residential amenity of existing houses, I agree with the first party that there is no overlooking into those houses. Furthermore there is no issue of overshadowing due to the location of the house relative to the houses at Navan Road.

The two issues which would potentially give rise to adverse effects on residential amenity of 261 and 259 Navan Road relates to a perception of overlooking from the first floor opaque windows and to the physical presence of the new house. I consider that the former issue should be dismissed in view of the common occurrence of small bathroom / landing windows. However, I consider that the length of the house and its façade treatment as viewed from the houses to the east could be described as giving rise to a building of oppressive appearance. The full first floor level would be visible front the back doors and patio areas at nearby houses.

I am unconvinced that the proposed house would adversely affect the amenities of 2A Kinvara Avenue by way of minor impacts on the front of that house – in this regard I refer to the separation of the two properties by a laneway. In order to avoid overlooking of the front of that house however bedroom no. 3 is to be provided with a frosted window and to be devoid of any clear window for outlook. This is not an

attractive design feature and contributes to the concerns expressed above in relation to residential amenity.

I have identified above a number of modifications to the proposed house in order to address existing and future residential amenity issues. I consider that the nature of some of these issues would be amenable to being addressed by condition. The appearance of the rear façade and its unattractive appearance and the fenestration of bedroom 3 cannot be appropriately dealt with in this manner.

Parking

Regarding the principle of development of the new house at this site I consider it is appropriate that the Board consider the level of non-residential development at no. 263 Navan Rd, the location of the site along a future upgraded bus route and in this context the arrangements for parking. It is too early at this stage to consider any implications which may arise from the proposed 'Bus Connect' project.

I noted at the time of site inspection that entry to the medical centre is from the side. At the time of inspection on a Sunday at 12.30, there were three cars parked at the site at one time and a GP in attendance. It is not clear to how the entire ground floor area is being used but the recent permission drawings showed it is laid out as consultancy rooms and overhead as offices. There is no clarification on the use of the existing building provided with the current proposal.

I note what appears to be heading in the planner's report relating to parking at the 'donor' site. However the report does not provide comment on this matter.

I refer to the objectors' comments that under the terms of the permission for this medical practice, the rear garden was to be reserved as parking. I have referred above to reg. ref. 3991/99, under which there was a requirement for 3 no. parking spaces, which appear to be intended to be provided at the rear of the building. While the subsequent permission for hard surfacing of the front did not explicitly indicate that this would be replacement parking, I conclude that this can be inferred. I note under the application submission reg. ref. 3065/17 the rear garden was indicated as a garden space and not as a parking zone.

Regarding development plan standards and on the basis of full commercial use of the existing building including 4 no. consulting rooms, this would give rise to a

maximum requirement for eight number parking spaces. I am not convinced that parking provision associated with the front garden is adequate. This is relevant insofar as the proposed development precludes any alternative provision to the rear of the house by reason of removal from the medical practice site of the vehicular access. Provision of a new access would require further permission.

I consider that this is a further substantive issue, which ideally would be resolved prior to any permission being granted for dwelling house at this site. However, this would constitute a new issue which would have to be referred to the applicant for comment.

Conclusion

While I consider that the development is acceptable in principle, I consider that there are a number of substantive details relating to fenestration, boundary walls, landscaping and finished floor levels which affect residential amenity and which require detailed consideration. I am not convinced that the revisions to fenestration at bedroom 3 can be addressed by condition and I consider that the appearance of the proposal as viewed from the rear is not acceptable. I also consider that the appellant's suggestion of a revised design would in the long term benefit residential amenity of existing occupants.

I recommended the Board uphold the decision of the planning authority.

In the event of any further application at this site it would be appropriate that the parking and use of the existing building be clarified. The Board may wish to comment on this matter in its Direction.

A LUAS contribution condition is appropriate if permission is granted.

Appropriate Assessment

Having regard to the nature of the proposed development, which comprises construction of a new house in a suburban location on serviced lands I am satisfied that 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

I recommend that the decision of the planning authority to refuse permission be upheld for the reasons and considerations outlined below.

9.0 Reasons and Considerations

The site of the proposed development is located in an area for which the stated zoning objective in the current Dublin City Development Plan is to protect, provide and improve residential amenity. Having regard to the length of the building and the detailed design of the rear façade, the fenestration, boundary treatment and landscaping, it is considered that the proposed development would constitute a visually obtrusive form of development which would be out of character with the existing pattern of development in the area as viewed from the east and would fail to provide adequately for the residential amenities of future occupiers. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mairead Kenny
Senior Planning Inspector

10th December 2018