



An
Bord
Pleanála

Inspector's Report ABP 302670-18

Development	Construction of 3 no. terraced housing units, off street carparking and new vehicular entrance.
Location	16 Newtown Cottages. Malahide Road Dublin 17.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2290/18
Applicant(s)	Niall Fagan
Type of Application	Permission
Planning Authority Decision	To Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Linda Maguire
Observer(s)	Maria Sheridan.
Date of Site Inspection	January 10 th , 2019.
Inspector	Breda Gannon.

1.0 Site Location and Description

- 1.1.** The site is located at No 16 Newtown Cottages, Malahide Road, Dublin, and is part of what was the original rear/side garden of the house. It is currently overgrown and is separated from the house by a wooden fence. The rear boundary is also defined by a wooden fence, behind which lies a large 'Woodies' store associated with Malahide Road Retail Centre. The site is adjoined on both sides by residential property and the boundaries are formed by fencing/hedgerows.
- 1.2.** No 16 Newtown Cottages is a semi-detached single-storey dwelling which has been extended to the rear. It retains a small garden to the front of the house in addition to private amenity space to the rear. It is similar in design and character to the original houses that formed part of the cul-de-sac.
- 1.3.** The area has retained much of its character, but has witnessed the infiltration of more modern houses, particularly in close to the Malahide Road junction and to the rear of No 12 & 13 Newtown Cottages. The access roadway has a narrow carriageway with no footpaths.

2.0 Proposed Development

- 2.1.** The proposal is to construct 3 no. terraced housing units on the site. The dormer style houses would be located centrally within the site and orientated to face the rear of the existing houses. The houses would have a similar layout accommodating the living area on the ground floor and 3 no. bedrooms on the first floor. A private amenity space would be provided to the rear of each dwelling. The external finish would comprise a combination of render finish with stone cladding and concrete roof tiles.
- 2.2.** Vehicular access to the site would be provided via a purpose built roadway (4.4m). The road which would have an asphalt finish, would run along the boundary between No 16 and 17B. The area to the front of the houses would be surfaced and parking space for 6 no. cars provided. The existing site boundaries would be retained and a new 2m high wall would be constructed along the rear of the existing house. The houses would be connected to the existing foul sewer and watermain.

3.0 Further Information

3.1. Further information on the application was sought by the planning authority on 9/4/18 on matters relating to the following;

- Access to adjoining backlands.
- Details of how proposed gardens would be affected by a similar adjoining two-storey development to the northwest or how the development would affect the development potential of sites to the east.
- Drainage issues.

The response of 9/8/18 which included a revised site layout plan (Dwg No FI-100) and drainage layout (Dwg CHC-00-GR-DR-C-00100) was to the satisfaction of the planning authority.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission for the development subject to 14 no. conditions. Apart from standard construction/engineering type conditions, the decision includes the following condition of note.

Condition No 4 – requires that the applicant enter into an agreement under section 47 of the Planning and Development Act, 2000 as amended, providing for shared access over the proposed right of way and that the access make provision for facilitating the possible future development of lands to the southeast and to the north west of the proposed development.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The **Planning Officer's** report of 3/9/18 notes the provisions of the development plan and other policy guidance, which promotes increased densities on underutilised lands in order to consolidate the metropolitan urban area and prevent urban sprawl. The site is considered to be an appropriate location for increased density as a

residential infill development. The development is considered to integrate with existing development on Newtown Cottages and to accord with the various development plan standards including private open space provision, separation distances, access to sunlight/daylight etc.

The sketch masterplan submitted at further information stage takes into account the adjoining lands to the rear and a reservation has been maintained to facilitate possible future access. It is not considered that the proposed development would unduly impact on the development potential of adjacent lands.

4.2.2. Other Technical Reports

The **Drainage Division** in their report of 22/8/18 raised no objection to the development subject to conditions.

The **Roads Streets & Traffic Department** in their report of 29/8/18 noted that the applicant had responded satisfactorily to the further information request. No objection was raised to the proposed development subject to conditions.

4.3. Prescribed Bodies

None.

4.4. Third Party Observations

A number of submissions were made to the planning authority which raised similar issues to those raised in the appeal. Other issues related to overlooking of existing houses, precedent for other development, concerns that properties would be used for rental purposes which would alter this long-established community.

5.0 Planning History

There is a significant planning history relating to Newtown Cottages which includes the cul-de sac and the houses facing onto the Malahide Road on either side of the junction. The following are documented in the Planning Officer's report.

Reg Ref No. 0043/18 – Certificate of exemption under Section 97 of the Planning and Development Act 2000, as amended, for the current proposal.

Reg Ref No. 3823/15 – permission granted for a dormer bungalow in the side garden of No 9 Newtown Cottages.

Reg Ref No. 2201/08 – permission granted for a dwelling to the rear of No 6 Newtown Cottages.

Reg Ref No 2387/06 – permission granted for 2 no. dormer dwellings at the rear of No 17 Newtown Cottages.

6.0 Policy Context

- 6.1.** The **National Planning Framework - Project Ireland 2040**, published in 2018 is the Government's plan for shaping the future growth and development of Ireland out to 2040. It is envisaged that the population of the country will increase by up to 1 million by that date and the strategy seeks to plan for the demands this growth will place on the environment and the social and economic fabric of the country. It sets out 10 no. goals, referred to as National Strategic Outcomes.
- 6.2.** Under National Strategic Outcome 1 (Compact Growth), the focus is on pursuing a compact growth policy at national, regional and local level. From an urban development perspective the aim is to deliver a greater proportion of residential development within existing built up area of cities, towns and villages, to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.
- 6.3.** The **Sustainable Residential Development in Urban Areas and Best Practice Urban Design Guidelines (May 2009)**, focus on the delivery of quality residential development. It promotes higher residential densities on residential zoned land in particular locations such as city and town centres, brownfield sites, public transport corridors, inner suburban/infill sites etc, subject to good design, the provision of a good quality living environment for future occupants and the protection of the amenities of adjoining property.

6.4. The operative development plan is the **Dublin City Development Plan 2016-2022**. The site is located in an area zoned Z1 – ‘Sustainable Residential Neighbourhood’ with an objective ‘to protect, provide and improve residential amenities.

Section 16.10.8 of the plan sets out the requirements with regard to backland development.

Policy QH8 -To promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals with respect to the design of the surrounding development and the character of the area.

Policy QH 21 – To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

Policy QH 22 – To 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.

The site is located within Parking Zone 23 (Map J).

6.5. Natural Heritage Designations

None.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal are summarised as follows;

- The concerns raised in the objections have not been considered.
- The proposal is out of character with the established pattern of development in the area.
- The capacity/condition of the existing laneway to cater for additional traffic.
- Inadequate carparking.
- Capacity of sewage system.

- Flooding from surface water.

7.2. Applicant Response

No rebuttal was received from the applicant to the grounds of appeal.

7.3. Planning Authority Response

No response to the grounds of appeal were submitted by the planning authority.

7.4. Observations

One observation was made which states that there are factual inaccuracies in the appeal;

- There have been no issues with sewerage capacity at 16 Newtown Cottages. It is understood that potential capacity issues have been addressed through the separation of surface water and waste water.
- The family have lived in 16 Newtown Cottages since 1933 and are not aware of any recorded instances of flooding from surface water.
- There are eight houses in Newtown Cottages with permitted second floor or dormer extensions. Four of these houses are adjacent to the proposed site. Permission has also been granted for two more dormer bungalows.
- The lane is large enough for a car and a large van/small truck to pass each other. There are not significant volumes of traffic on the lane and it is difficult to see how an additional three houses would alter that position.
- All houses in Newtown Cottages have sufficient parking within their boundaries for two or more cars. On site parking will be provided on the proposed site. There is no reason why this development would lead to residents' car being parked on the laneway. Not aware of any difficulty regarding ambulance access.

8.0 Assessment

I consider that the main issues that arise for determination by the Board in respect to this appeal relate to the following;

- Principle of the development.
- Impact on the established character and amenities of the area.
- Drainage.
- Roads & Traffic.

8.1. Principle of the development

Having regard to the Z1 zoning objective, where residential uses are permissible, the proposed development is considered acceptable in principle on the subject site. The proposal also accords with national policy/guidance which seeks to provide a more compact city through the more sustainable use of urban land and higher residential densities in built up areas of the city.

The proposal is located in what was the original rear garden of the adjacent house. While such backland development is facilitated by the plan (Section 16.10.8), it is recognised that each case must be considered on its individual merits, recognising the potential for impacts on the established pattern and character of development in the area and the potential for loss of amenity to existing residential property. The primary consideration is, therefore, to ensure that the proposed development will not impact negatively on the character of the area and the residential amenities of adjoining property, which is discussed in more detail below.

8.2. Impact on the established character and amenities of the area

Newtown Cottages consists of a group of houses, some of which address the Malahide Road, with the remainder contained within the cul-de sac which accommodates the appeal site. The houses have the benefit of significant rear gardens space which has resulted in the development of additional accommodation to the back/side gardens of some of the houses (No 2, 6 8 12, 13, 19 & 22). To a large extent, the new development has been accommodated without impacting significantly on the overall character of the existing house. This is particularly evident

along the Malahide Road and at No's 12 and 13 within the cul-de sac, where the houses are discretely positioned behind the original house. However, development has been permitted close to the junction (associated with No's 6 and 17), and to individual house (No 12) which differs in scale, mass and design to the established form of development in the area.

The proposal is to construct 3 no. two-storey houses in an area which is dominated by small scale single-storey dwellings. The proposed development is a significant departure from the scale and character of existing development. However, having regard to the set back from the public road (c 38m) and from the existing house (c 23m), where views will be largely screened by existing development, I consider that the proposed development can be accommodated without significant adverse impacts on the character of this residential area.

The proposal will be accommodated to the rear of an existing dwelling and the protection of residential amenity is, therefore, a primary consideration. The front of the new houses would face towards the rear garden of the existing dwelling. It is proposed to provide a 2m high wall along the boundaries of the existing house, which eliminates potential overlooking from ground floor windows. The only overlooking that could arise would be from the first-floor windows in the new houses, which serve bedrooms. Having regard to the limited size of the windows, the separation distance to the rear of the adjacent properties, and the mitigation afforded by the proposed boundary wall, I do not consider that there is potential for overlooking with significant impacts on privacy.

With regard to sunlight and daylight, the site is located to the east of the existing houses and will not result in a level of overshadowing of the existing house that would seriously impinge on its residential amenity. The gardens associated with the proposed houses will enjoy sunlight throughout most parts of the day, with the exception of the late evening when some overshadowing will occur.

Each of the three dwellings generally satisfies the unit size requirements set out in the *'Quality Housing for Sustainable Communities -Best Practice Guidelines for Delivering Homes Sustaining Communities* (DEHLG, 2007). While I note that the width of the living rooms are marginally below that recommended (3.8m), the overall floor area exceeds the recommended room size (13m²). Private open space is

provided in the form of a rear garden for each house (60m²) in compliance with development plan requirements ensuring that a reasonable level of amenity is afforded to future occupants of the scheme.

8.3. Drainage and flooding

The matters raised relate to surface water disposal, flooding and foul sewer capacity issues.

It is proposed to dispose of surface water directly to ground. Surface water will be directed to an infiltration trench located in the rear gardens of the houses fitted with a high-level overflow. The overflow would be directed to an interception blanket to the front of the houses, which would be designed to accommodate the 1.0% AEP event and a 10% allowance for climate change. On-site investigations have revealed that the soil has the capacity to accommodate the proposed system. The Board will note that subject to standard type conditions, the Drainage Division have raised no objection to the proposal.

Issues were raised in the submissions regarding the potential for flooding. A Flood Risk Assessment was submitted in response to further information. It provides information which indicates that the site has not flooded historically and is not at risk from fluvial or coastal flooding.

There are no records of any flood events on the site in the OPW's floodmaps and the OPW's Eastern Catchment Flood Risk Assessment and Management Study (ECFRAMS) indicate that the site is not subject to a fluvial risk for the 0.1% AEP flood event and is not within the 0.1% AEP coastal flood event zone. As such the site is assessed to fall within Flood Zone C, where there is a low probability of flooding and a Justification test is not, therefore, required.

In terms of pluvial flooding, there is reference to the Preliminary Flood Risk Assessment (PFRA) maps which confirms that there is no pluvial flooding to the subject site for the 0.5 % pluvial extreme flood event. This suggests that the potential risk from pluvial flooding is low, which coupled with the proposals to manage surface water run-off from the site, reduces the potential for flooding.

It is proposed to discharge the foul effluent generated by the development to an existing foul sewer. The submissions to the planning authority from local residents refer to an antiquated public sewer which is blocked a number of times a year and

the concerns that the provision of additional houses will exacerbate the existing problem. The site plan submitted in support of the application showed an existing 150mm foul sewer running along the rear of No's 15 & 16. The sewer would be traversed by the new access road to the site.

The planning authority's further information request focused on pinpointing the exact location of the sewer and the requirement for a 3m separation distance from structures. No issues were raised regarding the capacity of the sewer. Although site investigations were carried out, the exact location of the sewer was not identified. In any event, the sewer is noted to be at least 1.4m below ground level and with the exception of the intersecting manhole (which will be located beneath the proposed access route), it is not intended to dig to this depth at any location. The proposed system is designed to ensure that a connection will be achievable i.e., the final discharge pipe intersects the existing sewer at a level similar to that of the upstream manhole of the existing sewer. The only structure that will be built within 3m of the indicated sewer is a boundary wall to No 16.

The Drainage Division raised no objection to the information provided. Irish Water is the agency now responsible for the management and maintenance of wastewater assets and the applicant will be required to apply for a connection, which will be subject to Irish Water approval. I do not, therefore, consider that there are any outstanding matters in this regard.

8.4. Roads & Traffic

Access to the site is via a narrow cul-de sac (c 5m) off the Malahide Road (R 107). A one-way traffic flow system (northwards) operates along the regional road adjacent to the site, which results in simplified movements at the junction. Vehicular access to the new dwellings would be by way of a purpose built roadway running along the side of No 16.

The concerns raised in the submissions relate to the adequacy of the existing cul-de-sac to cater for the traffic generated by the new development. It is stated that ambulances, refuse trucks and other large vehicles have difficulty accessing the roadway due to parked cars.

While I accept that the cul-de-sac is narrow and that its capacity is reduced by parked cars, I note that each of the existing dwellings on the roadway has the benefit

of on-site parking space. The proposed development will not exacerbate any prevailing conditions as adequate off roadway parking space is proposed to serve the new dwellings.

I accept that the proposal will increase the volume of traffic using the cul-de sac. The current width is sufficient to allow two cars to pass. There are no footpaths to accommodate pedestrians. There is no scope to widen the roadway due to the proximity of development to the edge of the carriageway. I note that the Roads, Streets and Traffic Planning Division have raised no concerns regarding the proposal. However, the planning authority clearly envisage that there will be future proposals on other adjoining undeveloped sites, which is not surprising having regard to the substantial gardens associated with these properties.

The proposed dedicated access to the appeal site is restricted in width and is not sufficient for two cars to pass. A mini-master plan and revised layout plan submitted at further information stage provide an indication of how the proposed roadway could open up land on adjacent sites for further development. The Board will note that Condition No 4 of the planning authority's decision requires the developer to enter into a section 47 agreement to facilitate this arrangement.

The proposed development is dependent on access which is substandard, which is clearly deficient to accommodate the current proposal and would not be suitable to accommodate additional housing on adjacent backlands. It would appear that the only alternative to gain access to adjacent lands would be to provide similar type access roads along the sides of existing dwellings. This would result in disorderly and haphazard development of backlands, which would be contrary to good planning practice. To permit the current proposed development would, in my opinion, would create a precedent for similar unsuitable development which would negatively impact on the amenities of the residential area and the capacity of the cul-de-sac. I consider that the proposal is premature in the absence of more concrete proposals regarding access arrangements for the potential future development of backland areas.

9.0 Appropriate Assessment

Having regard to the location of the development within a serviced built up area, the nature of the development and the separation distance from Natura 2000 sites, I

consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effects on a European site, in view of the sites' conservation objectives and that, therefore, a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not required.

10.0 EIA Screening

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

11.0 Conclusion

- The proposed development is acceptable in principle in this location and would secure the sustainable use of residential zoned land consistent with national and local policy and guidance.
- It is considered that the design, scale and height of the proposed development is acceptable and can be accommodated on the site without significant adverse impacts on the established form and character of the area or the residential amenities of adjoining property.
- The proposed development satisfies the minimum unit size and substantially complies with the internal space requirements for the type of dwelling proposed, with adequate private amenity and carparking space, ensuring an adequate level of residential amenity for future occupants.
- The site is located in a site with a low risk of flooding. Having regard to the proposals for surface water disposal, it is not considered the proposed development will contribute to flooding.
- Having regard to the deficiencies in the access road to the site, it is considered that the proposed development would create an undesirable

precedent for similar type development on adjoining sites which would result in a haphazard form of backland development which would impact on the residential amenities of the area and the capacity of the existing cul-de-sac, contrary to good planning principles.

12.0 Recommendation

12.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be refused for the development for the reasons and considerations set out below.

13.0 Reasons and Considerations

It is considered that the proposed development would result in an excessive level of development on a site served by a substandard access road and would create an undesirable precedent for similar type development on adjoining sites, which would result in a haphazard form of backland development, which would seriously impact on the residential amenities of the area and the capacity of the adjoining cul-de-sac. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Breda Gannon
Senior Planning Inspector

15th, January 2019.