



An  
Bord  
Pleanála

## Inspector's Report ABP-303060-18

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<b>Development</b>	Permission to demolish existing shed and to construct a three bedroom house.
<b>Location</b>	Site to the rear of No. 90 Rosemount Estate, Churchtown Lower, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0842
<b>Applicant(s)</b>	Charco Properties Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Charco Properties Ltd.
<b>Observer(s)</b>	James Simpson and Kathryn Flinn
<b>Date of Site Inspection</b>	28.01.2019
<b>Inspector</b>	Erika Casey

## 1.0 Site Location and Description

1.1. The subject site is located to the rear of No. 90 Rosemount, a two storey dwelling with a single storey extension to the rear. The Rosemount estate is a typical suburban housing development characterised by two storey terraced dwellings. The site has an area of 0.015ha and currently accommodates a single storey shed structure with an area of c.37 sq. metres. The site has frontage onto an existing turning circle in Taney Park. There are a number of dwellings located on the turning circle in the vicinity of the site. To the west, a large contemporary dwelling has been constructed.

## 2.0 Proposed Development

2.1. The proposed development comprises the demolition of the existing single storey shed and the construction of a three storey, three bedroom house. The third floor is set back from the front elevation to provide an outdoor terrace. Permission is also sought for new vehicular entrance off Taney Park with off street parking for 2 no. cars. The design of the dwelling is contemporary with a flat roof. The overall gross floor area is 152.77 sq. metres.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1 To Refuse Permission for 1 no. reason:

*“The proposed development, by virtue of its design, height and siting would represent overdevelopment of this limited site. The proposed development would be contrary to Section 8.2.8.4 Private Open Space for Houses and would be contrary to Section 8.2.3.4 Additional Accommodation in Existing Built Up Areas of the County Development Plan 2016-2022 (vi) Backland Development with regard to garden size and depth. The proposed development would have a detrimental impact on the residential amenity of the neighbouring properties, being visually dominant and overbearing. It is considered that the proposed development would contravene the zoning objective, which is ‘A’, ‘to protect and/or improve residential amenity’, would*

*seriously injure the residential and visual amenities of the area and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.”*

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

#### **3.2.1. Planning Report (26.10.2018)**

- The dwelling is 7 metres from the rear boundary and given this proximity, there are concerns that the dwelling will be visually obtrusive when viewed from neighbouring properties. Consider it would have a negative impact on their residential amenities.
- The existing dwelling no. 90 would have a rear garden depth of only 4 metres which is unacceptable. Private open space to the rear of the proposed dwelling is c. 47 sq. metres which is below the minimum for a 3 bed dwelling.
- Concerns regarding the impact the dwelling would have on the future development potential of the adjoining site to the east.

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

##### **Transportation Planning (22.10.2018)**

- Recommends further information regarding width of vehicular access, compliance with DMURS with regard to sightlines and that car parking meets necessary dimensions.

##### **Drainage Planning (11.10.2018)**

- Recommends Further Information including that the applicant submit an alternative arrangement ensuring the foul and surface water are disposed of into separate foul and surface water networks and clarification sought regarding that the proposed surface water network which enters private land before connecting to the public surface water network.

### **3.3. Prescribed Bodies**

**Irish Water (12.10.2018):** Recommends Further Information.

### 3.4. Third Party Observations

3.4.1 4 no. third party observations were made. Issues raised include:

- Concerns regard the overall scale, height and bulk of the development, that it constitutes overdevelopment of a limited site and is visually obtrusive.
- The development will result in overlooking and loss of privacy and will have a negative impact on the residential amenities of adjoining properties.
- Concerns regarding traffic congestion and waste water disposal.
- Objections regarding legal boundaries.

## 4.0 Planning History

### **Planning Authority Reference D06A/1348/Appeal Reference PL06D.220913**

4.1 Permission granted by the Board in April 2007 for a two storey dwelling with a floor area of 98 sq. metres and new vehicular access from Taney Park.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The operative Development Plan is the Dun Laoghaire County Development Plan 2016 – 2022.

5.1.2 The subject site is zoned A: *“To protect and/or improve residential amenity.”* The principle of a residential dwelling is acceptable under this zoning objective. The following policies and objectives are of particular relevance:

**Section 8.2.3.4 (vii) Infill:** *“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.”*

**Section 8.2.3.4 (vi) Backland Development:** *“Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. The following standards will apply:*

- *Generally be single storey in height to avoid overlooking.*
- *Adequate vehicular access of a lane width of 3.7m must be provided to the proposed dwelling (3.1m at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.*
- *A wider entrance may be required to a backland development to or from a narrow laneway.*
- *Existing dwelling and proposed dwellings shall have minimum individual private open spaces of 48 sq. m. each - exclusive of parking - for one/two bedroom units or 60 sq. m. plus for three/four or more bedroom units.*
- *Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.*
- *Proposed two storey backland dwellings shall be located not less than 22 metres from the rear facade of the existing dwelling where windows of habitable first floor rooms directly face each other.*
- *Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.”*

## **5.2. Natural Heritage Designations**

5.2.1 The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC located c. 3.6 km to the north east of the site.

## **5.3 EIA Screening**

5.3.1 Having regard to nature of the development comprising an infill dwelling and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- In assessing the application no account was taken of the proposed roof terrace. The extent of private open space provided is 82.5 sq. metres which is in excess of the 75 sq. metres required for five bed spaces. The depth of the proposed rear garden is similar in depth and quality to other gardens in the vicinity. The amount of open space provided for no. 90 is 110.4 sq. metres.
- The height of the parapet of the proposed dwelling is 6.5 metres which is less than the adjacent contemporary house at no. 89 (6.8metres). The top floor has been set back and is, therefore, not visible or overbearing.
- The design of the dwelling is contemporary and assimilates with the house to the west. It has a smaller footprint than this existing house.
- The proposed dwelling will provide an attractive sustainable home close to amenities and public transport.

### 6.2. Planning Authority Response

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

### 6.3. Observations

#### **James Simpson and Kathryn Flinn, Rosskelton, 3A Taney Park, Dundrum**

- Consider the development would have a detrimental impact on the residential amenity of the adjoining property due its scale and layout. Height is excessive.
- Site is too constrained to accommodate a 3 storey family dwelling and proposal constitutes overdevelopment of the site. Inadequate information provided to demonstrate development complies with relevant standards.
- The contemporary style of the development is out of character with the area and visually obtrusive.

- Concerns regarding overlooking from third floor balcony.
- Object to potential intensification of vehicular use and that the development will result in a traffic hazard.
- Concern regarding sewage disposal.

## 7.0 **Assessment**

### 7.1 **Introduction**

7.1.1 The main issues are those raised in the grounds of appeal and observation and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development.
- Impact on Residential Amenity.
- Foul Drainage.
- Access.
- Appropriate Assessment.

### 7.2 **Principle of Development**

7.2.1 The subject development comprises an infill development on a backland site in Churchtown. The site is zoned Objective A *'To protect and/or improve residential amenity'* and currently accommodates a shed structure. Permission has previously been granted for an infill dwelling on the subject site with the Board noting that the development would not seriously injure the amenities of the area and would be acceptable in terms of traffic safety. A large contemporary dwelling has been constructed to the west of the site on a similar backland site. Having regard to the zoning objective pertaining to the site, the planning history and pattern of development in the vicinity, the principle of an infill dwelling at this location is acceptable in principle.

7.2.2 I note the concerns raised by the observers regarding the contemporary flat roofed design of the dwelling which is considered out of character with the area. I consider however, that such a contemporary design solution to be generally appropriate at

this location and would assimilate well with the adjacent dwelling to the west. Whilst the proposed dwelling is marginally higher than the adjoining house, the set back of the top floor reduces its prominence and it generally assimilates well within the streetscape when viewed from Taney Park.

### **7.3 Impact on Residential Amenity**

7.3.1 The subject development comprises a three storey dwelling with a floor area of approximately 153 sq. metres on a site of 0.015ha. Whilst a house was previously permitted on the subject site, it was for a much smaller dwelling, two storeys in height with a floor area of 98 sq. metres. A large contemporary dwelling has been constructed to the west. However, this is on a much larger site which amalgamated the rear gardens of no. 89A and 89 Rosemount.

7.3.2 Having regard to the limited extent of the site, I have concerns regarding the overall scale, height and bulk of the dwelling. It is proposed to construct the house immediately adjacent to the eastern boundary of the site with no set back. The dwelling will extend for approximately 10 metres along this common boundary and has a height of c.8 metres. I consider that it will appear as a large overbearing structure, particularly when viewed from the rear of no. 91 and be seriously injurious to their residential amenity. I also have significant concerns regarding its relationship with the existing dwelling to the immediate north – no. 90 Rosemount.

7.3.3 The County Development Plan sets out specific standards for such infill backland development. This notes that two storey backland developments should typically be 22 metres from the rear façade of the existing dwelling and have a minimum rear garden depth of 11 metres. The proposed development will be approximately 10.7 metres from the rear façade of no. 90 and a rear garden depth of 7 metres is proposed. Reduced standards are permitted for a single storey dwelling which permits a minimum rear garden depth of 7 metres. However, in this instance a three storey structure is proposed, and having regard to the overall height and scale of the development, such a significant reduction in the required standards is considered inappropriate in this instance.

7.3.4 Whilst I note the applicant has proposed opaque glass blocks and sand blasted glass on the rear elevation to minimise potential overlooking to the rear of no. 90, the



proximity of a three storey dwelling to the rear boundary of this property will in my view be visually obtrusive and overbearing.

- 7.3.5 Furthermore, given the extent of the development proposed, the remaining rear garden to no. 90 will have a depth of just 4 metres and an area of c. 25 sq. metres. The development will result in a significant reduction in the private open space provision for this dwelling and is substandard. I consider that the development would have a significant adverse impact on the amenities of no. 90. I note that the applicant states that the existing house will be served by 110.4 sq. metres of private open space. However, 85.4 sq. metres of this is located to the front of the site which is not considered appropriate for the calculation of private open space.
- 7.3.6 In terms of the proposed dwelling, the proposed rear garden will have an area of c. 47 sq. metres which is below the development plan standard of 60 sq. metres. It is set out by the applicant, that the development also includes a private terrace area which increases the overall open space provision to 82.5 sq. metres. Whilst the concerns of the local authority are noted, I am satisfied that the having regard to its urban location and additional terrace area, that sufficient private open space is provided to afford future residents a sufficient degree of amenity.
- 7.3.7 In conclusion, I consider the development represents the over development of this limited site. The development will result in a significant reduction in the private amenity space serving the existing residential dwelling to the north (no. 90), and having regard to its overall scale and height to the rear and side, it will appear visually obtrusive, have an overbearing impact and thus have a significant adverse impact on the residential amenities of adjoining properties.

#### **7.4 Foul Drainage**

- 7.4.1 I note that concerns have been raised by both the Planning Authority and Irish Water regarding the foul water disposal arrangement for the development. Irish Water advise that the applicant should submit alternative arrangements ensuring that foul and surface water are disposed of into separate foul and surface water networks. Their report dated the 12<sup>th</sup> of October 2018 also noted that it appears that the proposed foul network enters private land before connecting to the public surface water network and that the applicant should be requested to clarify the extent of

public and private lands and provide evidence that permission to gain access through the private lands has been received if required.

7.4.2 I note that the applicant has not addressed either of these issues in their appeal submission and I am not satisfied on the basis of the information provided on the file, that the necessary foul drainage arrangements to serve the dwelling can be provided. I note that this is a new issue however, and in this context do not recommend a refusal on this basis. However, should the Board be minded to grant permission for the development, further clarity on these issues may be required.

## 7.5 **Access**

7.5.1 It is proposed to access the dwelling from Taney Park from the existing turning circle. Whilst there is no access to the site at present, I have no objection in principle to a new vehicular access from this road to serve the development. Whilst I note the Transportation Department requested further information, there was no objection in principle to an access at this location. Furthermore, the principle of an access at this location was previously accepted by the Board under appeal reference PL06D.220913. Whilst the concerns of the observer regarding traffic impacts are noted, given the low volume of traffic likely to be associated with the development, I am satisfied that the development will not result in a traffic hazard.

## 7.6 **Appropriate Assessment**

7.6.1 Having regard to the nature and scale of the proposed development, an infill dwelling within an established urban area, and the distance to the nearest European site, 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 It is recommended that permission be refused for the reason set out below.

## 9.0 **Reasons and Considerations**

The proposed development due its overall scale, height and siting represents overdevelopment of a restricted site. The development would be contrary to the

guidance set out in the Dun Laoghaire Rathdown Co. Co. County Development Plan 2016-2022 under section 8.2.3.4 (vi) regarding backland development with regard to garden depth and separation distances from adjoining properties, would be visually obtrusive and overbearing when viewed from the rear garden of the existing house and adjoining property no. 91 Rosemount and would result in a significant reduction in the private open space serving no. 90 Rosemount. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

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**Erika Casey**  
**Senior Planning Inspector**

**29th January 2019**