



An
Bord
Pleanála

Inspector's Report ABP – 303430 – 19

Development	Provision of hard-landscaped vehicular car parking space in the rear garden, a sliding vehicular gate, rear garden boundary wall and all associated site works.
Location	No. 101A Downside Park, Skerries, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F18A/0576.
Applicant	Maeve McCann.
Type of Application	Planning Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party.
Appellant	Maeve McGann.
Observer(s)	None.
Date of Site Inspection	19th April 2019.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

1.1. The appeal site, No. 101A Downside Park, has a stated site area of 0.023ha. It is located on the north eastern corner of a T-junction that is situated in the southern end of the 'Downside Park' residential development which is located c1.2km to the south of Skerries town centre, c97m to the south of Shenick Road and c0.3km to the south west of the R128, in the Townland of 'Holmpatrick', in north County Dublin. The site consists of a 2-storey 3-bedroom detached dwelling house nearing completion that shares access onto the public road network with No. 101 Downside Park. There is an opening on the western boundary wall that consists of a pedestrian gate and vertical timber sheeting. On the public road alongside this opening there is a single light standard. The surrounding area is mainly characterised by matching in architectural style, built form and palette of materials pairs of semi-detached dwellings and it can be described as having a strong residential character.

2.0 Proposed Development

2.1. Planning permission is sought for the following works -

- One hard landscaped vehicular parking space in the rear garden area;
- A sliding vehicular gate in the western side boundary wall. This would open onto an internal access estate road known as 'Downside Park' via an adjoining public footpath and grass verge;
- A new section of rear garden boundary wall in place of previously approved pedestrian gate into the rear garden;
- All associated site works and services.

2.2. The accompanying documentation states that "*it is now proposed to provide a second car parking space to the house currently under construction, this now being proposed to be provided to the rear of No. 101A*". It also indicates that there is an existing lamp standard in the grass verge immediately outside the rear of the site where the new vehicular entrance is proposed and that the following engagement with Fingal County Councils Public Lighting Department they have agreed that this lamp-standard can be re-located 1m to the north of its current location.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to **refuse permission** for the following stated reasons:

“1. The proposed development of both an additional parking space and vehicular entrance to serve the subject property is excessive. If granted the proposed development would inevitably lead to vehicular movements across a main public footpath serving the wider residential area and the likelihood of pedestrian/vehicle conflict. The proposed development, would, therefore cause injury to the residential amenities of the area and establish an undesirable precedent for similar such developments in the area.

2. The subject site is zoned ‘RS’ in the Fingal Development Plan, 2017-2023, the objective of which is ‘to provide for residential development and protect and improve residential amenity.’ Objective DMS87 of the Fingal Development Plan 2017-2023 requires the provision of a minimum of 60 sqm of private open space located behind the front building line of a house. The proposed development of one new hard-landscaped vehicular car parking space in the rear garden of the dwelling fails to comply with Objective DMS87 in terms of the remaining quantum of private open space and if permitted would contravene materially Objective DMS87. Furthermore, the proposal would provide a substandard level of residential amenity for the occupants of the dwelling by reason of the fragmented nature of the rear private open space. The proposed development 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 Planner’s Report is the basis for the Planning Authority’s decision.

3.2.2. Other Technical Reports

- **Water Services Engineering Section:** No objection.
- **Transportation Planning Section:** No objection.

3.3. Prescribed Bodies

3.3.1. **Irish Water:** No objection.

3.4. Third Party Submissions

3.4.1. None.

4.0 Planning History

4.1. Site

P.A. Reg. Ref. No. F16A/0400: Planning permission was **granted** for a development consisting of the construction of a 2-storey 3-bedroom detached dwelling house on the site garden of No. 101 Downside Park. This application included vehicle access via the existing entrance serving the existing dwelling on site which by way of this application would be shared and a car parking space provision for one car to the front of the proposed dwelling and two to the front of No. 101 Downside Park. It also included a new pedestrian access on the northernmost point of the western boundary opening onto Downside Park.

5.0 Policy & Context

5.1. Local Planning Context

- 5.1.1. The policies and provisions of the Fingal Development Plan, 2017-2023, apply. The northern portion of the site lies within an area zoned 'RS' which has an aim to: *"provide for residential development and protect and improve residential amenity"*.
- 5.1.2. Chapter 3 of the Development Plan deals with the matter of residential development.
- 5.1.3. Chapter 12 sets out that one of the characteristics of traditional type housing is the provision of private open space and this is usually provided to the rear of the front building line of the house and that it shall be of qualitative and quantitative standards to ensure that the maximum benefit is derived from the open space. Objective DMS87 sets out that 3-bedroom dwelling houses shall have a minimum of 60m² of private open space *"located behind the front building line of the house"*.

5.2. Natural Heritage Designations

5.2.1. None relevant.

5.3. Environmental Impact Assessment

5.3.1. Having regard to the modest nature and scale the proposed development; the serviced nature of the site and its setting within a mature residential estate; the distance between the site and sensitive receptors; and, the lack of any direct hydrological connectivity from the site to any nearby sensitive receptors, I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Grounds of Appeal can be summarised as follows –

- This development seeks to facilitate the separation of No. 101 and No. 101A Downside Park should No. 101 Downside Park be sold in future.
- The car parking space to the rear would replace that currently provided to the front.
- The location of the car parking space to the rear is affected by where the Councils Lighting Department will re-locate the public road lamp standard.
- The appellant would be happy with a condition requiring the car parking space to the front to be omitted and replaced with a front landscaping scheme together with the inclusion of a pedestrian gate.
- The design includes measures to mitigate the potential for pedestrian/vehicle conflict.
- There is precedent for similar development in the area.
- The Development Plan provides no guidance on qualitative standards for private open space.

6.2. The Planning Authority

6.2.1. The Planning Authority response can be summarised as follows –

- The applicant by way of their appeal has clarified that the car parking space proposed is a replacement car parking space for the previously approved parking space to the front of the house, rather than the development of an additional car parking space. However, this does not change the Planning Authority's reasons for refusal.
- The Board is requested to uphold their decision; however, should their decision be overturned it is requested that a Section 48 condition be attached.

7.0 Assessment

7.1. Introduction

7.1.1. Having inspected the site and reviewed the file documents, I consider that the issues raised by this appeal can be assessed under the following broad headings:

- Principle of the Proposed Development
- Standard of Residential Development
- Other Matters Arising

7.1.2. The matter of Appropriate Assessment also needs assessment.

7.2. Principle of development

7.2.1. The subject site is located on residentially zoned lands in a relatively low-density part of the suburban fringes of north Dublin that have expanded to include settlements like Skerries.

7.2.2. The application site is zoned 'RS' (Residential) under the Fingal Development Plan, 2017 to 2023, with the objective to provide for residential development and to protect and improve residential amenity. The applicable zoning matrix designates residential land use as being permitted in principle within this zone. The zoning objective seeks to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.

7.2.3. In my view, the starting point for assessment must be whether or not the proposed development is acceptable in principle having regard to the relevant requirements set out under said Development Plan.

7.3. **Standard of Residential Development**

7.3.1. Previously under P.A. Reg. Ref. No. F16A/0400 planning permission was approved for the subdivision of No. 101 Downside Park to create the subdivision now known as No. 101A Downside Park alongside the construction of a 2-storey 3-bedroom detached dwelling house, a new pedestrian gate to the rear garden opening onto Downside Park with the original entrance that served No. 101 Downside Park being used as a shared entrance to serve both properties alongside providing access to a shared front driveway area which included provisions for off-street car parking to accommodate the Development Plan standard requirements for both dwellings.

7.3.2. The documentation accompanying this application indicates that the off-street car parking spaces and the shared driveway serving No. 101 and 101A Downside Park will be retained as is. This is clearly shown in the drawing titled "*Proposed Site Layout*". To this the applicant seeks to provide an additional car parking space to the rear garden area of No. 101A Downside Park with this space to be surfaced with a permeable paving system which would extend out to the line of the public footpath. Access to the car parking space is proposed via a splayed setback 3m in width entrance that would accommodate a sliding timber gate in the western boundary wall of the site that opens onto Downside Park c48m to the north of internal estate road T-junction in the residential development of Downside Park. It is also proposed to block up the previously approved pedestrian gate on the same side boundary wall in a manner that would match the existing wall *in situ* and to carry out landscaping of the back-garden area to include a raised planter box.

7.3.3. The appellants in their appeal submission to the Board indicate that this would be a replacement car parking space and not an additional car parking space. They also indicate that they are willing by way of condition to close off access to the shared entrance and to the front provide a landscaped area instead of an area that was permitted for off-street car parking. I consider that the Board is bound to assess the development as proposed in the documentation accompanying this application which indicates that this is not the case. Notwithstanding, should the Board be minded to

grant permission it may wish to impose a condition requiring these suggested measures.

- 7.3.4. In relation to the proposed development itself I raise the following concerns.
- 7.3.5. Firstly, the recently permitted dwelling house on this site was subject to meeting certain residential amenity safeguards. This included the provision of a minimum quantum of private open space. The standard in place at the time the dwelling house was permitted has remained unchanged under the current Development Plan and is stated to be a minimum of 60m² for a dwelling house containing 3 bedrooms. This requirement is set out under Objective DMS87 in the current Development Plan and in terms of location of this provision it clearly states that it must be "*located behind the front building line of the house*". In relation to the type of private open space, I also note Chapter 12 of the Development Plan indicates that the provision of such space should not just be quantitative but also qualitative. I consider that this is reasonable.
- 7.3.6. This application indicates that the proposed development would result in 63.06m² of private open space remaining. In terms of quantum of private open space remaining I share the view of the Planning Authority that the remaining open space would be less than the 60m² minimum required to satisfy Objective DMS87. In terms of calculating the space if one takes out the bin area, which could not be considered a space that would have any functional passive or recreational amenity value alongside the fact that the north westernmost corner of the rear garden area would be effectively severed by the sliding gate mechanism proposed these two areas would result in a loss of c6.5m². This would result in c56.5m² of private open space should the 63.06m² be accepted as the overall private open space quantum argued by the appellant to be remaining under this scheme.
- 7.3.7. In relation to the planter box while this would be less accessible and disjointed within the overall area due to the car parking space provision centrally within the scheme arguably they are common features within a landscaping scheme and it would in my view be unreasonable to discount this feature from the overall calculation of private open space remaining. Notwithstanding, the quantum of private open space falls short of the minimum standard required under said Objective DMS87.

- 7.3.8. In addition to this I raise concerns with regards to the qualitative standard of the remaining private open space should the proposed development be permitted in the manner proposed.
- 7.3.9. I consider that the overall site area is a restricted in area site occupying what was the side garden of No. 101 Downside Park. It consists of widths to the rear of the dwelling house of c9.1m and its irregular shape widens to c9.8m along the rear boundary. The rear elevation is staggered with c5.3m in depth from the main rear elevation to the rear boundary and c9.7m at its deepest point. There is no amenity space along the side of the dwelling as it is constructed with c1.2m separation distance from 101 Downside Park to the east and the drawings indicate a similar lateral separation distance between it and the western boundary. The latter appeared to be less on-site inspection but I note that this is an enforcement matter for the Planning Authority to deal with as they see fit.
- 7.3.10. The provision of the proposed car parking space within the confines of this restricted rear garden area, together with its northern aspect and the c2m plus height of the existing and proposed modified boundaries around the rear garden area would result in the private open space that serves No. 101A Downside Park being significantly diminished in its qualitative amenity value and it would be an excessive provision on this site where there is a car parking space permitted to the front. This is not just because the rear garden area would become fragmented in layout, as previously mentioned. But this fragmentation of space in my view becomes more manifest when one has regard to the significant changes in ground levels between the finished ground floor levels of the rear of the dwelling onto its adjoining raised decking areas and the steps accompanying them down to the lower ground levels which accommodates the car parking space, the bin area and the planter box situated on the northern boundary wall. The remaining spaces which surround a lower in ground level 3m x 5m car parking space would in terms of amenity be less flexible and less connected. In addition, the car parking space occupies a central location. A location that would suffer least from overshadowing due to the orientation of the site and the structures bounding the areas of private open space remaining. The quality of private open space areas/zoned indicated in the proposed scheme in particular the area labelled 'Dining Area' would be less useable due to the level of overshadowing from the western boundary wall. In addition, the passage of

a car into and out of the proposed car parking and the parking of a car on the proposed car parking would deteriorate the amenity value of the remaining rear open space further manifesting how fragmented the rear private open space provision would be.

7.3.11. I further consider the provision of a detached dwelling house on the side garden area of No. 101 Downside Park fundamentally changed the hierarchy in spaces associated with it and how it relates within the original design scheme of Downside Park. The design concept of No. 101A Downside Park rightly included a legible front and rear building line alongside provided an adequate rear garden space to meet the future occupants needs. In so doing it resulted in a dwelling house with a principal orientation facing southwards like No. 101 Downside Park and a rear garden space with a northern orientation like the dwelling houses neighbouring it to the east. To provide a car parking space to the rear of 101A Downside Park would be out of context with properties within this residential scheme that are reliant on vehicular access and car parking to the front of them and the provision of private open space to the rear.

7.3.12. Moreover, the provision of another vehicle entrance would add to the proliferation of entrances within this estate and the provision of a vehicle entrance entering directly onto the public footpath with c.2m in height boundary walls on either side is out of context with the manner in which vehicle entrances are provided within this residential estate and despite the provision of a splayed set back would in my view have the potential to result in conflict between those accessing and egressing from the proposed car parking space and those using the public footpath as well as vehicles using the public road. These manoeuvres cannot be achieved on site as no provision has been made for the same due to the restrictions of the site. As such access and egress from the proposed car parking space would result in additional movements in the public domain whether or not a car is parked nose in to the proposed car parking space or nose out.

7.4. Appropriate Assessment

7.4.1. Having regard to the nature and scale of the development sought and to the nature of the receiving environment, namely an urban and fully serviced location and separation distance to European sites, 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.

7.5. Other Matters Arising

7.5.1. **Civil Matters:** The appellant indicates that the proposed development arises from the possibility of No. 101 Downside Park being sold in the future. Planning permission was granted for a detached dwelling on the side garden with a shared access and car parking to the front of the proposed and the existing dwelling. Easements and rights of way in the event of No. 101 Downside being sold are not a matter for the Board to determine. The Boards focus in this case is ensuring proper planning and sustainable development. In this case, the rear garden in terms of its context, its nature and the function it performs, i.e. providing quantitative and qualitative private open space amenity for future residents in keeping with the required standards for this type of residential development. The applicant has not demonstrated that this can be achieved nor can it be achieved in a manner that would not result in any undue road safety and road user concerns.

7.5.2. **Deep Soil:** I am cognisant that this proposal indicates the use of a permeable paving system to surface the proposed car parking space. Notwithstanding, the parent grant of planning permission indicates greater surface area of permeable ground, i.e. deep soil, than what is apparent to the rear of this site and in the documentation now submitted with this application. The decking area that covers most of the private amenity space does not appear to accommodate any appropriate surface water drainage solutions or interceptors to deal with pollutants from the car parking space itself. The latter could be dealt with by way of condition should the Board be minded to grant permission and the condition should seek an integrated solution for surface water to slow down and control runoff from the site in its entirety in a manner that is consistent with Sustainable Drainage Systems.

8.0 Recommendation

8.1. I recommend permission is **refused** for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the location of the site in proximity to a T-junction within the Downside Park residential estate, it is considered that the proposed development, would give rise to additional traffic turning movements in proximity to this junction as well as directly onto the adjoining public footpath, that it would result in conflict between road users and would endanger public safety by reason of traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the planning history of the site, in particular, the quantum of accommodation on the site and the use of rear part of the site as private open space serving the overall development as granted by P.A. Reg. Ref. No. F16A/0400, it is considered that the proposed development would seriously injure the residential amenity of existing residents by reason of loss of private open space in a manner that would conflict with the 'RS' zoning objective which seeks to provide for residential development and protect and improve residential amenity. It is further considered that the proposed development, if permitted, would result in an inadequate qualitative and quantitative provision of private open space in a manner that would conflict with the provisions set out under Objective DMS87 of the Fingal Development Plan, 2017 to 2023. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

30th April 2019