



An
Bord
Pleanála

Inspector's Report ABP 304026-19.

Development	Construction of a dwelling
Location	Site to the rear of 64 Landscape Road, Churchtown, Dublin 14.
Planning Authority	Dún Laoghaire Rathdown Co. Council
Planning Authority Reg. Ref.	D18A/0557
Applicant	Erica Hoyne
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	Alison Connolly & Others
Observers	None
Date of Site Inspection	17/5/19
Inspector	Siobhan Carroll

Contents

1.0 Site Location and Description.....	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision	3
3.1. Decision.....	3
3.2. Planning Authority Reports.....	3
3.3. Prescribed Bodies.....	4
3.4. Third Party Observations.....	4
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations.....	6
5.3. EIA Screening	6
6.0 The Appeal.....	6
6.1. Grounds of Appeal.....	6
6.2. Applicant Response.....	8
6.3. Planning Authority Response	10
7.0 Assessment.....	10
8.0 Recommendation.....	13
9.0 Reasons and Considerations	14
10.0 Conditions	14

1.0 Site Location and Description

- 1.1. The site of the proposed development is located at Churchtown, Dublin 14. The site has a stated area of 0.0452 hectares. It comprises the eastern section of the rear garden of no. 64 Landscape Road. No. 64 Landscape Road is a semi-detached two-storey dwelling. The general pattern of development in the vicinity is similar low density, suburban housing.
- 1.2. The site has frontage of 10m onto the end of Redwood Court. Redwood Court is a cul-de-sac which contains sixteen dwellings. It is accessed off Braemore Road to the east. The eastern and western site boundaries adjoin the rear gardens of no's 62 and 66 Landscape Road. These boundaries are defined by block walls with mature hedges and shrubs.

2.0 Proposed Development

- 2.1. Permission is sought for the two-storey detached house with new vehicular and pedestrian access of the Redwood Court. Features of scheme include;
 - Site area – 0.0452 hectares,
 - Area of proposed dwelling – 132sq m.
 - Ridge height of new dwelling – 7.745m

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission subject to 13 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated – Further information requested on the following matters;

- (1) The applicant is requested to submit a letter of consent from either the Council or a third party to traverse the area to the front of the site in order to access the proposed new vehicular access from Redwood Court.
- (2) Submit a detailed plan layout indicating the new parking area within the garage, for the two bedroom house, with circa minimum depth of 5.5m to allow sufficient room for a driver/passenger to walk around the front or back of a parked car and so that a parked car does not overhang onto the public road.
- (3) The applicant shall demonstrate the individual movements for a vehicle using the proposed new parking area with garage for the new dwelling. Where a vehicle is required to drive in from Redwood Court and enter the proposed new parking area and then proceed to drive out onto Redwood Court. The applicant shall show the above detailed layout drawing by using a computer aided design software such as Autoturn or similar computerised design software.

Report dated 22/2/19 – The Planning Authority were satisfied with the details submitted in relation to the vehicular access arrangements to the site and a grant of permission was recommended.

3.2.2. Other Technical Reports

Transportation Planning – report dated 18/7/18 – Further information required.

Transportation Planning – report dated 15/2/19 – no objection subject to condition.

Drainage Planning – no objection subject to condition.

3.3. Prescribed Bodies

Irish Water – no objection

3.4. Third Party Observations

The Planning Authority received 3 no. submissions/observations in relation to the planning application. The issues raised are similar to those set out in the appeal.

4.0 Planning History

None

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 following policies and objectives are of particular relevance:

- Chapter 8 refers to Principle of Development
- Section 8.2.3.4 (vi) refers to Backland Development
- 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 façade 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.
- Section 8.2.3.4 (vii) refers to 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.”

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura 2000 sites in proximity to the site are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC located c. 4.5km to the north east of the site.

5.3. EIA Screening

- 5.3.1. Having regard to nature of the development comprising a 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

A third party appeal was submitted by Kieran O'Malley & Co. Ltd on behalf of Alison Connolly and others. The main issues raised can be summarised as follows;

- The applicant has not included a letter of consent in relation to the land between the appeal site and the public road at Redwood Court.
- As part of the further information the applicant was requested to submit a letter of consent to traverse the area to the front of the site in order to access the proposed new vehicular access from Redmond Court.
- The applicant's response on the matter was that the strip of land was effectively under the charge of the Local Authority and that a letter of consent was not required.
- From page 2 of the further information it is informed that the "open space/lands identified in the map comes under the charge of the Local Authority at the time of completion of the estate. The cul-de-sac and open space layout are not per the drawings submitted by the applicant.

- The owners of no. 12A Redwood Court have maintained the lands in front of their house and driveway. They contend that it is not owned by the Council nor has its been taken in charge by the Local Authority.
- It is submitted that applicant has insufficient legal interest to traverse the land in front of her site in order to gain pedestrian or vehicular access to Redwood Court.
- In relation to the vehicular access the appellant's employed the services of Trafficwise Traffic and Transportation solutions to examine the proposal.
- They concluded that the vehicular turning manoeuvres are based on inaccurate mapping. The development plan requires that sightlines are provided in accordance with DMURS. No sightlines are provided to the south.
- Therefore, it is submitted that the proposal does not avoid traffic hazard and does not provide satisfactory sightlines and would give rise to endangerment of public safety due to traffic hazard.
- The proposal is not considered to be mews development as it is not at a mews laneway. The proposal has no privacy to the ground floor front elevation as it would be very close to the boundary of the roadside.
- The proposed development would be out of character with the pattern of development in the area and if permitted would set an undesirable precedent.
- It is submitted that the proposed development would be detrimental to the amenity and privacy of future residents of the proposed dwelling. The proposed living room windows would be a maximum of 906mm from the site boundary at Redwood Court. The proposal would be detrimental to the amenity of no's 12 and 11A Redwood Court. The proposed dwelling would be overlooked by the front of no. 12A Redwood Court.
- Should the Board decide to grant permission the appellants would request that conditions be attached requiring the following. That a letter of consent for access at Redwood Court be submitted to the Planning Authority for agreement, that the ground floor layout be reversed so that the garage is remote from the driveway of no. 12A Redwood Court and that the first floor

windows on the front elevation of the dwelling be reduced in size and that they shall not exceed the eaves height of the proposed dwelling.

6.2. Applicant Response

A response to the third party appeal was submitted by The House Architects on behalf of the applicant Erica Hoyne. The issues raised are as follows;

- In relation to the matter of whether the strip of land behind the kerb line at the end of the cul-de-sac in Redwood Court is owned by a third party the applicant has carried out significant research over six months. The conclusion of the research is that the land is in public ownership. Accordingly, there would be no requirement to obtain a third party consent to traverse the land.
- The Planning Authority in the planner's report considered that the matter of ownership of the land necessary to access the site has been satisfactorily addressed.
- The appellant questioned the relevance of the plan drawing 78-27-02 which refers to the original permission to develop Redwood Court because the layout shown is marginally different from the house layout 'as built'. The 'as built' situation is different as the development subsequently constructed two additional houses onto Redwood Court.
- It is noted that the shape of the land at the end of the cul-de-sac was truncated in order to afford access to the appellants house at no. 12A.
- The appellants suggest that a traffic hazard would arise from the provision of the proposed off-street parking to the proposed dwelling. The appellant has queried the level of detail and accuracy of the vehicle tracking simulation study. The software used was Auto-Turn online software developed by Transight Solutions which is used globally for vehicle tracking simulation. The car used for the simulation is a large saloon car 4.6m long which is representative of a typical car. A standard family car can access the proposed garage in both forward and reverse directions.

- Regarding sightlines at the entrance/exit to the garage, the appeal refers to DMURS standards. This is not considered relevant to the proposed access to an off-street carparking space at the end of a suburban cul-de-sac.
- The access/egress from the proposed off-street parking at the end of the cul-de-sac and it is not perpendicular to a roadway, cycle track or a footpath. There is no crossing traffic. It is submitted that any occupant of no.12a exiting the driveway would be alerted to the fact that a car was about to exit the garage of the proposed dwelling when the garage door was opened.
- Regarding the proposed design of the dwelling the existing houses within Redwood Court are quite varied in form. There is a mix of house types including bungalows, dormer bungalows, two-storey semi-detached and terraced houses with a mix of brick and rendered finishes. The proposed dwelling design is contemporary in terms of detail and proportion. The form of the dwelling reflects the surrounding design character with a slate pitched roof, dormer windows and a rendered finished proposed.
- The house has been designed to minimise the overall height of the house with dormer windows at first floor level and the roof eaves dropped to between the windows.
- The proposed mews development would not set an undesirable precedent as suggested by the appellant as there are no other sites with road frontage on to Redwood Court.
- The first floor windows are proposed to the front of the dwelling. Section 8.2.8.4(ii) of the development plan requires a minimum separation of 22m between directly opposing rear first floor windows. The proposed front elevation of the new dwelling will be at 61 degrees to the front elevations of no's 11a, 12 and 12a Redwood Court. Therefore, there would be no directly opposing windows.
- The dwelling has been carefully designed to minimise any adverse impact upon existing residential amenity in the vicinity. No proposed first floor windows overlook any existing private open space. The form of the building has been designed to be setback at first floor level to minimise any potential overbearing or overshadowing of adjoining private open space.

- The applicant requests that the Board uphold the decision of the Council to grant permission.

6.3. **Planning Authority Response**

- It is considered that the grounds of appeal do not raise any new matters, which would justify a change of attitude to the proposed development.
- The Board is referred to the Planner's report.

7.0 **Assessment**

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Design and impact upon amenity
- Vehicular access
- Appropriate Assessment

7.1. **Design and impact upon amenity**

- 7.1.1. The proposed development involves the construction of detached two-storey dwelling. The proposed floor area of the dwellings is 132sq m. The floor plan indicates a kitchen/dining room, living room, toilet and garage at ground floor and 2 no. bedrooms and a bathroom at first floor level.
- 7.1.2. The subject site is located to the rear of no. 64 Landscape Road. Access is proposed off Redwood Court. Section 8.2.3.4 (vi) of the development plan refers to Backland Development. It specifies that the existing dwelling and the proposed dwelling shall have minimum individual private open spaces of 48sq m. each - exclusive of parking - for one/two bedroom units or 60sq m plus for three/four or more bedroom units. The proposed dwelling has a rear garden with an area of 67sq m and the existing rear garden would have an area of 92.5sq m. Therefore, the

provision of private amenity space for both dwellings is in accordance with Section 8.2.3.4 (vi) of the development plan.

- 7.1.3. Section 8.2.3.4 (vi) also sets out the separation distance between new backland development and the existing dwellings. It specifies that 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. In relation to proposed two storey backland dwellings it requires that they shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of habitable first floor rooms directly face each other.
- 7.1.4. The ground floor element of the dwelling is setback 18m from the main rear building line of no. 64 Landscape Road. The proposed first floor of the dwelling is set back 23m from the rear of the dwelling. Furthermore, in relation to the rear elevation, I note that only narrow high level rooflights are proposed to serve the bedrooms with the main first floor windows proposed to the front elevation which addresses the public road. Accordingly, having regard to the siting and design of the dwelling and the setback distances provided, I am satisfied that it would not unduly impact upon the existing residential amenities of the surrounding properties along Landscape Road.
- 7.1.5. The appellants have raised concerns in relation to the residential amenities of future residents of the proposed dwelling caused by potential overlooking of the front of the property. The front of the dwelling directly addresses the end of Redwood Court, which is a cul-de-sac. There are no properties which are directly opposite the front of the dwelling. In response to this matter raised in the appeal the applicant notes that the front elevation of the proposed dwelling would be at 61 degrees to the front elevations of no's 11a, 12 and 12a Redwood Court. Having regard to the siting of the dwelling relative to the existing surrounding development, I consider that the future amenities of residents of the dwelling have been satisfactorily addressed.
- 7.1.6. The appellants have expressed concern at the design of the proposed dwelling relative to the surrounding dwellings. In terms of its design character the proposed dwelling is two-storey, pitched roofed and of a contemporary architectural style. The proposed ridge height is 7.745m. The proposed external finish comprises a rendered finish with concrete roof tiles with an aluminium trim and a zinc clad finish is

proposed to the dormers and front bay feature. While it is noted that proposed design is contemporary, I note the mix of house types and finishes along Redwood Court and, having regard to the quality of the proposed design and finishes, I consider that the proposed dwelling would be acceptable.

7.2. Vehicular access and car parking

- 7.2.1. A new vehicular entrance to a garage parking space within the dwelling is proposed with access off Redwood Court. The proposed entrance is located at the end of cul-de-sac. The appellants contend that the proposed development would give rise to a traffic hazard due to the inadequacy of sightlines and that the proposed turning area for vehicles manoeuvring in and out the proposed garage is inadequate. In relation to the adequacy of sightlines, the proposed garage would be situated onto the end of cul-de-sac. There would be no vehicular movements arising from the north-east and limited vehicular movements would be generated by vehicles entering and exiting the driveways of no's 12 and 12a Redwood Court. The vehicular entrance to the garage has a width of 3.175m which will allow space for a vehicle to manoeuvre in and out of the site safely. As detailed on drawing no's 17-114/F002 and 17-114/F003 submitted with the further information response turning manoeuvres of a vehicle parking in the garage in forward and reverse gears can be accommodated at the end of the cul-de-sac where there is a road width of 9m. Accordingly, I am satisfied that vehicular turning manoeuvres associated with one vehicle parking at the proposed garage can be satisfactorily accommodated at this location.
- 7.2.2. Table 8.2.3 of the Development Plan refers to Residential land use car parking standards. It is required under the Development plan that for a two bedroom dwelling that a minimum of 1 no. car parking space be provided. The proposed garage provides parking for one vehicle, in accordance with parking requirements. Accordingly, I conclude that the proposed development is adequate in its provision of site access and parking arrangements will not give rise to traffic hazard.
- 7.2.3. Third party appellants submit that applicant has insufficient legal interest to traverse the land in front of the site in order to gain pedestrian or vehicular access to Redwood Court. In response to these matters the applicant states that they dispute this claim and submit that following extensive research they determined that the land is in public ownership and that, there would be no requirement to obtain a third party

consent to traverse the land. In relation to the matter, I note that the Planning Authority were satisfied that the subject hardstanding proposed for use as a vehicle crossover forms part of the road network and that the Council is responsible for the issue of any road opening licences.

- 7.2.4. The Planning and Development Act 2000, as amended, requires that the applicants have sufficient legal interests in the lands to carry out the development. Furthermore, I note that it is not within the remit of the Board to determine legal interests and/or obligations held by the applicant, in relation to such lands. Section 34(13) of the Planning and Development Act, 2000, as amended, relates as follows: "A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development." This subsection makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate." Accordingly, I do not consider that these matters are reasonable and substantive grounds for refusal of the proposed development.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature of the proposal a dwelling and the nature of the receiving environment, namely a suburban and fully serviced location, 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**

- 8.1. I recommended that permission be granted for the following reasons and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016 - 2022, to the nature and scale of the proposed development, to the pattern of existing development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of pedestrian and traffic safety. 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, as amended by the further plans and particulars submitted on the 1st of February 2019, 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 visual amenity.

3. Water supply and drainage arrangements, including the disposal of surface water, shall be in accordance with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall be erected on the site, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

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 or public holidays. Deviation from these times shall 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. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

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.

Siobhan Carroll
Planning Inspector

7th of June 2019