



An
Bord
Pleanála

Inspector's Report

ABP-304550-19

Development	Construction of 2 no. detached, dormer bungalows and all associated site works.
Location	6 Wellington Cottages, Wellington Green, Templeogue, Dublin 6W.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0080
Applicant(s)	Rosemount Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party
Appellant(s)	Rosemount Properties Ltd.
Observer(s)	None
Date of Site Inspection	20 th August 2019
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.2ha, is located on the north side of a suburban road, known as Wellington Cottages/Willington Green, in Templeogue, Dublin 6W. The north side of the road comprises a row of older, semi-detached, single-storey cottages – many of which have been substantially extended to the rear. There are additional detached houses constructed with the rear gardens of a number of the houses. The rear gardens of these cottages originally extended to the Poddle River. The opposite side of the road contains a row of semi-detached, two-storey houses from the 1980's. There are public footpaths in the area and there is public lighting in place. There is a timber pole, supporting utility cables, at the back of the footpath on the site frontage. The footpath is approximately 1.4m wide in this area. The site itself, is flat.
- 1.2. There is a single-storey, semi-detached cottage on the appeal site – adjoining no. 5. The house on this site is undergoing renovation and extension at present – with new timber sash windows fitted in the front elevation and a new slate roof. Old sheds to the rear of the cottage have been demolished. The site is, at present, largely a building site. The Poddle River flows from west to east, along the northern boundary of the site – the area adjacent to the river being overgrown with thistles and briars. Dormer-style houses on Limekiln Road back onto the river to the north of the site. To the east, the site abuts the rear garden of adjoining no. 5 – the boundary with which is a mixture of concrete block wall and fencing. A bungalow has been erected in the rear garden of no. 5. To the west, the site abuts the rear garden of adjoining no. 7 – the boundary with which is a 2.5m high concrete block wall (which is capped, but not plastered on the site side). A dormer bungalow has been erected in the rear garden of no. 7.

2.0 Proposed Development

- 2.1. Permission sought on 7th March 2019, for development comprising the construction of 2 no, detached, four-bedroom, dormer bungalows (of 225m² and 207m² respectively) and all associated site infrastructure works.
- 2.1.1. The application is accompanied by a Flood Risk Assessment – undertaken for application ref. SD18A/0327.

3.0 Planning Authority Decision

By Order dated 1st May 2019, South Dublin County Council issued a Notification of decision to grant planning permission subject to 18 no. conditions. The conditions of note can be summarised as follows-

1. Development shall be carried out in accordance with plans and particulars submitted.
2. Proposed dwelling 6B, shall be omitted.
3. A 15m wide biodiversity zone shall be established along the bank of the Poddle River – inside which no development shall be undertaken – not even exempted development.
4. Relates to landscaping – including suitably-large native Irish trees.
6. Relates to drainage.
7. Finished floor level of house to be 500mm above highest known flood level in the area.
18. Requires payment of a development contribution of €18,731.41.

4.0 Planning History

Ref. SD18A/0327: Permission granted to Rosemount Properties Ltd, for two dwellings on this site on 12th March 2019. Condition 2 required omission of one of the two houses: whilst condition 3 required a 15m wide biodiversity zone along the bank of the Poddle River. There is no development on site to date, on foot of this permission.

5.0 Policy Context

5.1. Development Plan

The relevant document is the South Dublin County Council Development Plan 2016-2022.

- The site is zoned 'RES' – 'To protect and/or improve residential amenity'.

- Policy H17 Objective 3 states- “To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation”.
- Chapter 11.3.2 (iii) deals with backland development and states-
The design of development on backland sites should meet the criteria for infill development in addition to the following criteria:
 - Be guided by a site analysis process in regard to the scale, siting and layout of the development.
 - Avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area.
 - Development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking.
 - Access for pedestrians and vehicles should be clearly legible and, where appropriate, promote mid-block connectivity.
- G2 Objective 2 states- “To protect and enhance the biodiversity value and ecological function of the Green Infrastructure network”.
- G2 Objective 3 states- “To restrict development that would fragment or prejudice the Green Infrastructure network”.
- G3 Objective 2 states- “To maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities. Strategic Green Routes and Trails identified in the South Dublin Tourism Strategy, 2015; the Greater Dublin Area Strategic Cycle Network; and other government plans or programmes will be open for consideration within the biodiversity protection zone, subject to appropriate safeguards and assessments, as these routes increase the accessibility of the Green Infrastructure network”.

- Figure 8.1 of the Plan indicates the South Dublin County Strategic Green Infrastructure Network. The Poddle River is not indicated on this figure.

5.2. Natural Heritage Designations

The site is neither within nor immediately abutting any natural heritage designation. The closest such is the Glenasmole Valley SAC (Site code 001209) – located some 5.8km to the southwest.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal from Simon Clear & Associates, agent on behalf of the applicant, Rosemount Properties Ltd, received by An Bord Pleanála on 28th May 2019, can be summarised in bullet point format as follows-

- This appeal is against conditions 2 & 3 of the Notification of decision to grant permission.
- Condition 2 requires omission of one of the two houses. It refers to contravention of a condition attached to a permission which has not been put into effect. The reference to SD13A/0327 is an error: it should read SD18A/0327.
- Condition 3 requires the provision of a 15m wide biodiversity zone across the width of the site. The applicant has proposed a 10m wide biodiversity zone. There is no justification for a 15m wide zone, as there is no potential for an ecological corridor to continue beyond the bounds of the site, and there are no proposals for green infrastructure at this location.
- The rear garden of house 6B is wide; and substantially exceeds the minimum requirements: the proposed area is 152m², which is over double the minimum requirement of 70m². It will also benefit from outlook over the 10m wide biodiversity zone along the bank of the Poddle River.
- The development supports national and regional policy of increasing the density of residential development in suburban areas.

- Permission has been granted in the past for small, infill housing developments in the area – particularly adjacent to the Poddle River. There is a well-established pattern of backland development to the rear of houses in Wellington Cottages. The appeal site is the last, undeveloped backland plot, in this row of houses. The site is 19m wide and over 80m long (excluding the existing no. 6 and defined curtilage).
- The site is currently overgrown with weeds and shrubs.
- Adjoining site 7A has a 2m block wall adjacent to the Poddle River.
- The layout of the current application is determined by the concerns of the PA in relation to the inclusion of the 10m biodiversity zone within the rear garden of the one of the houses which formed part of planning application ref. SD18A/0327.
- The houses proposed within the current development are smaller than those proposed in application ref. SD18A/0327.
- The applicant has indicated a willingness to comply with biodiversity policy contained within the Development Plan. The insistence of a 15m wide zone stems from the previous application on this site. Green Infrastructure Policy 3 Objective 2 states- “To maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities...”. The Planning Officer’s Report on this application also refers to Green Infrastructure Policy 2 Objective 2 which states- “To protect and enhance the biodiversity value and ecological function of the Green Infrastructure network”. Objective 3 states- “To restrict development that would fragment or prejudice the Green Infrastructure network”. Ecological corridors perform an important function, and the applicant is willing to comply with a 10m wide biodiversity zone. There is no justification for the requirement of a 15m wide zone. There is no potential for such a 15m wide corridor to continue to the east or west of the appeal site, due to the presence of physical barriers and development on adjoining sites. A recent infill

housing development has included a road – constructed within 10m of the Poddle River.

- There are no plans to use the Poddle River for Green Infrastructure purposes. The Poddle river does not feature on Figure 8.1 of the Development Plan.

6.2. **Planning Authority Response**

The response of SDCC, received by An Bord Pleanála on 13th June 2019, indicates that the PA has no further comment to make.

6.3. **Observations**

None received.

6.4. **Further Responses**

The appeal was referred, by An Bord Pleanála, to Inland Fisheries Ireland for comment – by letter dated 16th July 2019. There was no response received within the appropriate period.

7.0 **Assessment**

The principal issues of this appeal relate to residential amenity, ecology and flooding. The applicant has appealed conditions 2 & 3 of the Notification of decision to grant planning permission. These conditions go to the heart of the permission, and I would consider that in looking at these two conditions, the Board would effectively be looking at the application, 'de novo'. For this reason, I consider that the Board should not restrict itself to consideration of the two conditions which have been appealed; but should look at the application in its entirety.

7.1. **Development Plan Considerations**

- 7.1.1. The site is zoned for residential use; and the proposal would be in accordance with the policies of the Plan for backland development. A pattern of backland development has already been established on all other cottage plots at Wellington

Cottages. This is the last remaining cottage with a full rear garden – extending all the way to the Poddle River to the north.

- 7.1.2. There are policies within chapter 8 of the Plan, relating to Green Infrastructure. The Poddle River does not feature on Figure 8.1 of the Development Plan – which details the Green Infrastructure Network of the county. Indeed, it would be difficult to see how it could – where rear gardens of private houses hedge it in on both banks in this area. I note that there is public open space flanking the north bank of the river – a short way downstream – on the opposite side of Wellington Lane. G3 Objective 2 of the Plan states- “To maintain a biodiversity protection zone of not less than 10 metres from the top of the bank of all watercourses in the County, with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities...”. The applicant has observed this 10m requirement in drawings submitted with the application. The applicant argues that it is unreasonable to require a 15m wide buffer – where the Plan only requires a 10m wide buffer. I would agree with this contention. The attaching of a condition requiring a 15m wide buffer, to a previous grant of permission for housing on this site, is not a relevant consideration. The appellant correctly points out that permission has been granted in the recent past for a small infill development of 8 no. houses on a site a short way to the east, which includes an access road located within 10m of the Poddle River (at Wellington Lane). This development has been carried out. The appellant further notes that it is unlikely that the buffer zone could be extended to east or west of the appeal site, arising from development on adjoining sites. I would be satisfied that 10m is a sufficient buffer zone, which would comply with the Green Infrastructure requirements of the Development Plan – in particular G3 Objective 2.

7.2. Design & Layout

- 7.2.1. The proposal comprises backland development to the rear of a single-storey, semi-detached cottage. The principle of backland development within rear gardens of cottages at this location is long-established: the difference in this instance is the proposal for two houses – one behind the other. The proposal represents a poor use of serviced suburban land – at a very low density. I note the comment of the Roads Department of SDCC in this connection. It would have been desirable to develop all

of the rear gardens of these houses in conjunction; to achieve a more economic use of the land. However, it is too late at this stage – all other rear gardens having been already developed. The development of two houses would represent a continuation of the pattern of backland development at this location. At 19m in width, it would still be possible to develop this site at a slightly higher density. However, such a scheme is not before the Board for consideration.

- 7.2.2. Two, detached, dormer bungalows are proposed on this site. The design of the houses is unexceptionable; and not dis-similar to what exists within adjoining backland sites. The separation distance between houses is sufficient to ensure that there will be no overlooking – where all three houses on the site will face the one direction: south. I note that there is a dormer bungalow constructed within the rear garden to no. 7, to the west. It is open to residents to screen gardens with walls/fences or planting, if privacy is desired. The rear gardens of houses on Limekiln Road to the north, will not be overlooked to any significant degree – regard being had to the separation distances involved and to the presence of the Poddle River and its associated, vegetated, riparian corridor.
- 7.2.3. The houses are provided with large rear gardens – significantly above the 70m² minimum required for four-bedroom houses. Notwithstanding the large extension currently under construction to the rear of existing no. 6 Wellington Cottages, sufficient area will be allocated to the curtilage of this house to provide for private amenity use, for future occupants.

7.3. Access & Parking

- 7.3.1. There is existing vehicular access to the site from Wellington Green. There is on-street parking on this road also. The proposed development allows for parking to the side of the existing house, along with the construction of a new vehicular access to serve the two new houses. This new access will be 5.6m in width; and will allow two cars to pass. The shared access drive (with marked out area for pedestrians) provides for a turning area between the remaining rear garden of the existing cottage and the new front garden of house 6A. It is unlikely that any refuse truck would enter such a small site. It appears from the application that it is intended that the shared access area be taken-in-charge by the local authority. This would appear to be an

undue burden on the Council, and I would consider that the area should be jointly managed by the occupants of the houses. The construction of the new access will require the relocation of a timber pole (supporting utility cables). This relocation should be carried out at the expense of the developer; and a condition requiring its relocation should be attached to any grant of permission to issue from the Board.

7.3.2. The proposed sites are large; and will allow for ample car-parking for houses.

7.4. **Water**

7.4.1. Water Supply

The supply of water to the houses is to be from a 6" watermain within the public footpath in front of no. 6 Wellington Cottages. A report from Irish Water, indicates that there is no objection to the proposal.

7.4.2. Foul Effluent

Foul effluent is to be discharged to an existing 225/300mm diameter public foul sewer in Willington Green. A report from Irish Water, indicates that there is no objection to the proposal.

7.4.3. Surface Water

Surface water is to be discharged to an existing 525mm diameter public surface water sewer in Willington Green. The report of the Water Services Department of SDCC indicates no objection to the development; and requires compliance with SuDS. This would appear to require the provision of soakways and permeable paving – but without specifically stating this. There is no indication of any ground examinations or excavation, to establish whether the site is suitable for soakways. If the Board is minded to grant permission, then a condition should be attached requiring compliance with the surface water drainage requirements of SDCC – something which would have to be agreed in writing with the PA, prior to commencement of development.

7.4.4. Flooding

The application form indicates that the site has never been flooded, to the applicant's knowledge. The application was accompanied by a copy of a Flood Risk Assessment – dated December 2018 – and carried out in relation to a previous

application on this site. The site is located within Zone C – of the classification of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” (2009). The Poddle River is subject to fluvial flooding. A condition should be attached to any grant of permission requiring finished floor levels to be 0.5m above the highest recorded flood levels in the area.

7.5. Other Issues

7.5.1. Development Contribution & Bond

Condition 18 of the Notification of decision to grant planning permission, required the developer to pay a contribution of €18,731.41. This contribution relates to one house only. If the Board is minded to grant permission for two houses, then the development contribution would have to be proportionally increased. If, as argued elsewhere in this report, no part of the development is to be taken-in-charge by the Council, then there is no requirement for a bond condition to be attached to any grant of permission to issue from the Board.

7.5.2. Archaeology

The site is not located within an identified area of archaeological potential. The site forms part of the rear garden curtilage of a dwelling-house, although it does abut a watercourse. I note that there are no proposals to interfere in any way with the watercourse. The Notification of decision to grant planning permission did not include a condition relating to archaeological monitoring. Having regard to the limited size of the site, I would not consider that an archaeological monitoring condition is warranted in this instance.

7.5.3. Social & Affordable Housing

The proposed development is not subject to the requirements of Part V.

7.5.4. Appropriate Assessment

Having regard to limited nature of the proposed development, and to the fact that it will be connected to the public sewer network, 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 an European site.

7.5.5. Environmental Impact Assessment

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 environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

7.5.6. House Numbering

Condition 10 of the Notification of decision to grant planning permission related to house numbering – 6A. If the Board is minded to confirm the permission, or to allow the appeal, then a condition relating to house numbering should be attached.

7.5.7. Hours of Construction

Condition 13 of the Notification of decision to grant planning permission related to hours of construction. A similarly-worded condition should be attached to any grant of permission to issue from the Board.

7.5.8. Taking-in-Charge

Condition 14 of the Notification of decision to grant planning permission related to public lighting. As the development is a private one, I would not consider that such a condition is required. It is a matter for the applicant to provide lighting to driveway(s), if required. I note that Condition 16 relates to taking-in-charge of the development by the LA. The proposal does not represent an economic form of backland development; and it is not reasonable that the Council should have to bear the costs of maintenance of the road access. I note that there is no public open space being provided with this development.

8.0 **Recommendation**

I recommend that permission be granted, for the Reasons and Considerations set out below, and subject to the attached Conditions.

9.0 Reasons and Considerations

Having regard to the zoning of the site in the current development plan for the area, and to the pattern of development in the vicinity; it is considered that, subject to compliance with the attached Conditions, the proposed development would not be detrimental to the residential amenities of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of pedestrian convenience and traffic safety, and 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, 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. A 10m wide biodiversity zone shall be created across the full width of the site – on the bank of the Poddle River. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), and any statutory provision replacing or amending them, no development falling within Part 1 of Schedule 2 of the Regulations shall be carried out within the biodiversity zone, without a prior specific grant of planning permission.

Reason: To comply with the green infrastructure objectives of the Development Plan and to ensure the protection of the Poddle River and its associated riparian corridor, in the interests of biodiversity.

3. Details of external finishes of the proposed houses, shall be submitted for the written agreement of the planning authority, prior to commencement of

development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water within the site, shall comply with the requirements of the planning authority for such works and services. In particular, no surface water shall be discharged to the Poddle River.

Reason: In the interest of public health and to ensure that there is no piped discharge of surface water to the adjacent river.

5. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of this development.

Reason: In the interest of public health and orderly development.

6. The access to the site shall remain a private access – serving the two new dwelling-houses. Maintenance/management of this shared area shall be the responsibility of the owners/occupants of the two new houses.

Reason: In the interest of orderly development.

7. The finished floor levels of houses shall be 500mm above the highest known flood level for the site and the surrounding area.

Reason: In the interest of public health and safety.

8. The footpath on Wellington Green shall be dished to the requirements of the planning authority, and at the expense of the applicant, prior to occupation of either of the two new houses on the site.

Reason: In the interest of pedestrian and traffic safety.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground within the site.

Reason: In the interests of visual and residential amenity.

10. The proposed houses shall be numbered 6A and 6B Wellington Cottages.

Reason: In the interests of urban legibility.

11. Any first floor windows in gable elevations of the houses, shall be in obscured glazing.

Reason: In the interest of the residential amenities of adjoining properties.

12. The timber telegraph pole located at the back of the footpath (at the point where the new vehicular entrance is to be created), shall be relocated at the expense of the applicant, and on consultation with the relevant service provider, prior to first occupation of either of the two new houses on the site.

Reason: In the interest of orderly development and traffic safety.

13. Site development and building works shall be carried out only between the hours 0800-1900 Mondays to Fridays inclusive; between the hours 0800-1600 on Saturdays; and not at all on Sundays or public holidays. Deviations from these times will only be allowed in exceptional circumstances, where prior written approval has been received from the planning authority.

Reason: To safeguard the amenities of residential property in the vicinity.

14. Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government, in July 2006.

Reason: In the interest of sustainable waste management.

15. 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.

**Michael Dillon,
Planning Inspectorate.**

21st August 2019.