



An
Bord
Pleanála

Inspector's Report ABP 304712-19

Development	Construction of 1 no. 4-bedroom, single storey detached dwelling house, new boundary division walls and all associated site works
Location	7 Windmill Lands, Swords, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0145
Applicant	Robbie Knight
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Niall Savage
Observer(s)	None
Date of Site Inspection	23 rd August, 2019.
Inspector	Brendan Coyne

1.0 Site Location and Description

- 1.1. The site is located at the end a cul-de-sac known as Windmill Lands and has a stated area of 0.11 hectares. The site contains a single storey semi-detached 2 bedroom dwelling (60sq.m.). The roof profile of the dwelling is hip-ended and its elevation finishes comprise rendered and stone cladding. A vehicular driveway provides access to the side and rear of the dwelling. The front garden of the dwelling is hard surfaced with brick paving. A 2m high timber fence subdivides the rear garden of the dwelling.
- 1.2. Lands to the north of the site contain two-storey houses along Glassmore Park and a detached dwelling, No. 7A Windmill Lands, is located on adjoining lands to the east of the site. A combined sewer traverses the site. The immediate area along Windmill Lands is characterised by single storey semi-detached and detached houses with spacious gardens.

2.0 Proposed Development

- 2.1. Permission sought for the following;
 - Construction of a detached single storey 4 no. bedroom dwelling (165 sq.m.) to the side/rear of the existing dwelling,
 - Erection of new boundary division walls within the site,
 - The existing vehicular entrance will provide a shared vehicular entrance serving both the existing and proposed new dwelling.
 - The provision of a car parking area in the front garden of the existing dwelling and a car parking 'court' to the front of the proposed new dwelling.
 - Alterations to existing site drainage including the provision of a water harvesting storage tank in the rear garden of the existing dwelling and the front lawn of the proposed new dwelling.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council granted permission for the proposed development subject to 13 no. Conditions. Of these, Conditions of note are as follows;

2. *Prior to commencement of development the applicant/developer shall accurately determine the line and level of the existing 225mm combined sewer traversing the site for the agreement of Irish Water; a minimum clear distance of 3 metres shall be maintained between this sewer and any part of the proposed development, including its foundations.*
3. *The proposed wall, gate and piers located between the front garden and the front court, as indicated on drawings submitted, shall be omitted.*
4. *A minimum separation distance of 2.3 metres shall be provided between the side walls of the proposed house and the northern and southern side boundary walls of the site, which shall result in a slight reduction of internal floor space in the dwelling.*
5. *The following requirements of the Transportation Section shall be adhered to in full;*
 - a) *Boundary walls located to the front of the existing house and along the shared vehicular access shall not exceed a height of 900mm.*
 - b) *No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere with or obstruct (or could obstruct over time) the required visibility envelopes.*
 - c) *All stormwater shall be disposed of to soakpits or natural watercourse within the site and shall not discharge onto the public road.*
 - d) *All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.*

6. *A landscape plan, to include native evergreen hedge planting along the site boundaries shall be submitted for the written agreement of the Planning Authority prior to commencement of development on site.*
9. *(b) The submitted infiltration blanket calculations are incorrect with regards to the infiltration coefficient unit rate. In order to reduce discharge from the rainwater harvesting tank into the combined system (such as during periods of high rainfall and low consumption) the overflow arrangement shall be such that it discharges into the permeable paving subbase, with a subsequent high level overflow from the paving area into the combined sewer. Details shall be submitted to the Water Services Section of Fingal County Council for approval prior to commencement of construction.*
13. *The developer shall pay the sum of €12,438 (updated at date of commencement of development, in accordance with changes in the Tender Price Index) to the Planning Authority as a contribution towards expenditure that was/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area of the Authority, as provided for in the Contribution Scheme for Fingal County made by the Council. The phasing of payments shall be agreed in writing with the Planning Authority prior to commencement of development.*

3.2. Planning Authority Reports

3.2.1. Planning Report

The basis for the Planning Authority decision includes:

- The front building line of the proposed dwelling should be brought forward 4.2m to be in line with the rear building line of the existing dwelling on site. However, this is restricted by reason of a sewer traversing the site which requires a 3m setback.
- In the interest of privacy and residential amenity, the site should be professionally landscaped to include native evergreen hedge planting around the site boundaries.
- The proposed wall, gate and piers located between the front garden of the proposed dwelling and the parking court to its front should be omitted in order to

encourage cars to turn safely within the site and to avoid any potential reversing manoeuvres backing out onto the cul-de-sac.

3.2.2. **Other Technical Reports**

3.2.3. ***Transportation Planning Section:***

No objection subject to Conditions.

3.2.4. ***Water Services Section:***

No objection subject to Conditions.

3.2.5. ***Irish Water:***

No objection subject to Conditions.

4.0 **Planning History**

4.1.1. **F18A/0231** Permission refused in 2018 for the construction of 2 no. semi-detached single storey 2-bedroom houses, in the side garden of the existing house. Development to include the erection of new boundary division walls and the retention and adjustment of the existing vehicular entrance to accommodate vehicles for both the existing dwelling and proposed 2 no. new dwellings.

4.1.2. The Reasons for Refusal are summarised as follows;

1. By reason of its design and location on a prominent site of restricted size and configuration, the proposed development would be unduly obtrusive and out of character with the pattern of development in the area.
2. The proposed access to the site is not an acceptable form of entrance arrangement to serve two houses and would negatively impact on the established character of the area.
3. The storage space provided does not comply with Development Plan residential standards.
4. The proposed development would set an undesirable precedent for other similar developments.

4.1.3. **P.A. Ref. F16A/0410 & A.B.P. Ref. PL06F.248799** Permission refused in 2016 for the construction of 2 no. single storey semi-detached 3 bedroom houses in the side/rear garden of the existing house. Development to include the erection of new boundary division walls, the adjustment of the existing vehicular entrance to serve both the existing and proposed new dwelling and associated site works.

The Reasons for Refusal are summarised as follows;

1. The proposal would constitute significant over-development of this site by reason of lack adequate levels of private amenity space, mutual overlooking of the proposed dwellings and restricted access arrangements, unsuitable for the level of vehicular traffic likely to be generated from the three dwellings on the site.
2. The proposal would not provide adequate in-curtilage car parking spaces, in accordance with the provisions of Table 12.8 of the Development Plan. Furthermore, the site cannot safely accommodate vehicular movement to and from the existing house and accordingly would endanger public safety by reason of a traffic hazard.

5.0 Policy and Context

Fingal County Development Plan 2017-2023

Zoning: The site is zoned objective 'RS' which seeks 'to provide for residential development and protect and improve residential amenity'.

Section 11.8 Zoning Objectives, Vision and Use Classes

Objective PM44 Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.

Objective PM45 Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.

Objective PM65 Ensure all areas of private open space have an adequate level of privacy for residents through the minimisation of overlooking and the provision of screening arrangements.

Chapter 12 Development Management Standards

Objective DMS24 Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.

Objective DMS29 Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units.

Objective DMS39 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.

Objective DMS44 Protect areas with a unique, identified residential character which provides a sense of place to an area through design, character, density and/or height and ensure any new development in such areas respects this distinctive character.

Objective DMS87 Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

- 3 bedroom houses or less to have a minimum of 60 sq.m. of private open space located behind the front building line of the house.
- Houses with 4 or more bedrooms to have a minimum of 75 sq.m. of private open space located behind the front building line of the house.

Narrow strips of open space to the side of houses shall not be included in the private open space calculations.

Table 12.8 Car Parking Standards

5.1. **Natural Heritage Designations**

None

6.0 **EIA Screening**

Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

7.1.1. A third party appeal was received from Niall Savage who resides at No.7A, Windmill Lands, which is the detached house immediately to the east of the appeal site. The following concerns were raised in the grounds of appeal:

- The proposed development would create in an increase in traffic along the Windmill Lands cul-de-sac, which would impact on the safety of children who play on the cul-de-sac.
- The site does not have the capacity for the car parking required for the proposed development. This would lead to additional cars parking on the already congested cul-de-sac and would compromise access for emergency vehicles, such as ambulances and fire brigades.
- Concern expressed with regard the capacity of the site to absorb surface water drainage from the proposed development and adjacent neighbouring dwellings which drain onto the site.

7.2. **Applicant Response**

7.2.1. The Applicant did not respond to the third party appeal lodged.

7.3. **Planning Authority Response**

- An Bord Pleanála is referred the Planning Authority's report and Condition No.'s 2,3,5 and 9 of the grant of permission, which address the issues raised in the ground of appeal.
- In the event that the Planning Authority's decision is upheld, the Planning Authority requests that Condition No. 13 of the grant of permission is included in An Bord Pleanála's determination.

7.4. **Observations**

None

8.0 **Assessment**

8.1.1. The relevant planning issues in this appeal relate to;

- Traffic
- Car Parking / Access for Emergency Vehicles
- Drainage
- Compliance with Development Plan Policy

These are addressed under the heading below accordingly.

8.2. **Traffic**

8.2.1. The third-party appellant expresses concern that the proposed development would create in an increase in traffic along the Windmill Lands cul-de-sac, which would endanger the safety of children who play on the road.

As indicated in Section 4.0 above, permission for 2 no. dwellings was previously refused, partly on the grounds that the restricted access arrangements to the site were unsuitable for the level of vehicular traffic likely to result from the provision of 3 no. dwellings on the site.

8.2.2. Windmill Lands is a quiet cul-de-sac with low levels of traffic, providing access to 12 no. existing dwellings. Given the context of the proposed development which provides

for the construction of only 1 no. additional 4-bedroom dwelling on large side garden of a dwelling, I consider that the proposal would not create a substantive increase in traffic volumes along the Windmill Lands cul-de-sac, such that it would not endanger public safety by reason of a traffic hazard. As such, I recommend that the proposed development should not be refused permission on these grounds.

8.3. Car Parking / Access for Emergency Vehicles

- 8.3.1. The appellant objects to the proposed development on the grounds that the site does not have the car parking capacity required for the existing and proposed new dwelling, that this would result in additional on-street parking along the cul-de-sac and would compromise access for emergency vehicles such as ambulances and fire brigades.
- 8.3.2. Having reviewed the drawings, I note that 1 no. car parking space would be provided to the front of the existing 2-bedroom dwelling and 2 no. car parking spaces would be provided to the front of the proposed 4-bedroom dwelling. This complies with the requirements of Table 12.8 – Car Parking Standards of the Fingal County Development Plan, which requires the provision of 1-2 car parking spaces for a 2-bedroom house and 2 car parking spaces for 3+ bedroom houses, in urban/suburban areas. I consider therefore, that the car parking provided for the proposed development would not directly result in an increase in on-street parking along Windmill Lands cul-de-sac and would not compromise existing access for emergency vehicles. As such, I recommend that the proposed development is not refused permission on these grounds.

8.4. Drainage

- 8.4.1. The appellant expresses concerns that the site does not have the capacity to absorb surface water run-off from the proposed development and adjacent neighbouring dwellings.
- 8.4.2. The application included a Surface Water Management Report for the subject site, prepared by Trinity Green Environmental Consultants. Key points detailed in this report, are as follows;

- The total impermeable area from which storm water will flow is estimated to be from a roof area of 185sq.m.
- Soil Infiltration testing found that the water table is present at 900mm below ground level. While it is recommended to keep 1m of free draining soil between the base of the soakaway and the water table, this can be reduced somewhat as the water entering the soakaway will come directly from the roof and will therefore be clean.
- It is estimated that the invert level of the inlet will be at approx. 0.3m below ground level, so there will be a limited depth to the soakaway.
- An infiltration test was conducted in accordance with BRE 365 Guidelines and an infiltration rate (f) of 1.3E-06 m/sec was established.
- Based on rainfall volume data from Met Éireann and the requirement for a vertical separation to protect the groundwater, there is no possibility of designing a soakaway to fit within the required area.
- As an alternative, an infiltration blanket was designed allowing for an inlet at 300mm below ground level, using the infiltration rate of 1.3E-06 m/sec. It was found that the required area is extremely large and the system does not empty in the required time. It is therefore concluded that it is impractical to dispose of the storm water within the site boundaries.
- It is recommended that the storm water is collected utilising a rain harvesting system and that excess flow is discharged off site.

8.4.3. The Planning Authority's Water Services Section report indicated that the submitted infiltration blanket calculations are incorrect in relation to the infiltration coefficient unit rate. As per the Planning Authority's report, Condition no. 9(b) recommended that in order to reduce discharge from the rainwater harvesting tank into the combined system (such as during periods of high rainfall and low consumption) the overflow arrangement should be such that it discharges into the permeable paving sub-base, with a subsequent high level overflow from the paving area into the combined sewer.

8.4.4. Having regard to the above, I consider that the issue of surface water drainage on the site can be satisfactorily addressed by way of Condition.

8.5. Compliance with Development Plan policy

Whilst not detailed in the grounds of appeal, I consider it appropriate to assess whether or not the proposal accords with Development Plan policy and objectives, regarding residential development. This is addressed under the sub-headings below accordingly;

- 8.5.1. **Zoning:** The site is zoned objective 'RS' which seeks 'to provide for residential development and protect and improve residential amenity and protect and improve residential amenity'. Under this zoning objective, the use class 'Residential' is permitted in principle. As such, the proposed development is acceptable in principle, subject to compliance with the relevant policies, standards and requirements of the Development Plan.
- 8.5.2. **Infill development:** The location of the proposed development to the side/ rear of an existing dwelling with a large garden is acceptable and in accordance with Objective PM44 of the Development Plan which seeks to encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas, subject to the character of the area and environment being protected.
- 8.5.3. **Internal Floor Areas:** The floor area of the proposed 4 bedroom 6 person dwelling, at 165 sq.m., complies with the requirements of Table 12.1 of the Development Plan which requires a minimum of 95 sq.m. for a 4 bed. / 6 person single storey house.
- 8.5.4. **Private Amenity Space:** The private amenity to be provided to the rear of the proposed dwelling is approx. 180 sq.m. and the private amenity space to be maintained to the rear of the existing dwelling is approx. 81 sq.m. This complies with the requirements of Objective DMS87 of the Development Plan which requires a minimum of 60 sq.m. private open space for a 2-bedroom dwelling and 75 sq.m. for a 4-bedroom dwelling.
- 8.5.5. **Building Lines and Building Height:** The front building line of the proposed dwelling is set back 4.2m behind the rear building line of the existing dwelling. The Planning Authority's Planning Report notes that this setback is provided to enable a required 3m setback from the 225mm drain which traverses the site to the front of the proposed new dwelling.

Condition No. 4 of the grant of permission by the Planning Authority requires a minimum separation distance of 2.3m be provided between the side walls of the

proposed house and the northern and southern boundary walls of the site, which will result in a slight reduction of the internal floor space of the dwelling. This condition was imposed to allow for adequate maintenance and access. Given that a side passageway of 1m is provided to either side of the proposed dwelling and that the dwelling is single storey in nature, I consider that a minimum separation distance of 2.3m to either side of the dwelling is not required.

The roof ridge height of the proposed dwelling at 4.9m would match that of the existing dwelling. This is acceptable.

8.5.6. **Elevation Treatment:** The elevation drawings submitted detail that the material and finishes to be used on the elevations of the proposed dwelling would comprise of render finishing and 'select' roof tiles. The Planning Authority's planning report considers it appropriate that brown roof tiles should be used to harmonise with the existing dwelling. I consider this appropriate.

8.5.7. **Overlooking:** Given the boundary treatment of the site, separation distances provided, and that the proposal comprises a single storey dwelling, it is considered that overlooking is not an issue.

8.5.8. **Overshadowing / Daylight:** Overshadowing of neighbouring property would not occur. Given the 15.5m depth of the rear garden of the proposed dwelling, loss of daylight to habitable rooms within the dwelling is not an issue.

Boundary Treatment: The proposal provides a 2m high boundary wall between the existing and proposed dwelling, providing pedestrian access to the rear of the existing dwelling. The proposal also provides a new boundary wall 0.9m high to the front of the existing dwelling and along the north-western side of the vehicular driveway. The swept path analysis drawing details that a 1.2m high wall, gate and piers would be provided to the front of the proposed new dwelling. It is noted that the Planning Authority conditioned the omission of this wall, gate and piers, to encourage cars to turn safely within the site and to avoid any potential reversing manoeuvres backing out on to the cul-de-sac. Given that vehicular access to the site is acceptable and to the satisfaction of the Transportation Section of the Planning Authority, I do not consider it necessary to omit the wall, gate and piers to the front of the proposed dwelling.

8.6. Screening for Appropriate Assessment

Having regard to nature and scale of the proposed development to provide one additional house in a fully serviced and zoned residential area and the nature of the receiving environment and the distance and lack of connections to the nearest European sites: Malahide Estuary SPA (site code: 004025), 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.

9.0 Recommendation

9.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

10.0 Reasons and Considerations

10.1. Having regard to the residential land use zoning of the site, the pattern of development in the area, the size of the site and the layout and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely impact on the residential amenity of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. These requirements to include, interalia;
 - (i) The developer shall accurately determine the line and level of the existing 225mm combined sewer traversing the site. A minimum clear distance of 3 meters shall be maintained between this sewer and any part of the proposed development, including its foundations.
 - (ii) In order to reduce discharge from the rainwater harvesting tanks into the combined system (such as during periods of high rainfall and low consumption) the overflow arrangement of the rainwater harvesting tanks shall be such that it discharges into the permeable paving subbase, with a subsequent high level overflow from the paving area into the combined sewer.
 - (iii) Separate foul and surface water drains shall be maintained on site prior to discharging into the existing combined sewer.

Details shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement.

Reason: In the interest of public health, safety and in order to ensure adequate and appropriate surface water drainage provision

3. The following requirements of the Planning Authority shall be adhered to in full;
 - (i) The boundary walls located to the front of the existing house and along the shared vehicular access shall not exceed a height of 900mm.
 - (ii) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm, which would interfere with or obstruct (or could obstruct over time) the required visibility envelopes.
 - (iii) No stormwater shall discharge onto the public road.
 - (iv) The vehicular access, serving the proposed development, shall comply with the requirements of the planning authority for such road works.

- (v) Any gate to be installed shall be inwards opening only and shall not open across the public footpath or the shared vehicular access driveway.

Reason: In the interest of traffic and pedestrian safety.

4. All external finishes, including roof tiles, shall harmonise in colour and texture with the existing dwelling on the site.

Reason: In the interest of visual amenity.

5. All public service cables to the proposed development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.

Reason: In the interest of visual amenity.

6. 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 and public holidays. Deviation from these times will 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.

7. 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.

Brendan Coyne
Planning Inspector

5th September 2019