



An
Bord
Pleanála

Inspector's Report ABP-305262-19

Development	Demolition of garage and ancillary outbuildings/retaining walls within the rear garden, construction of dwelling, to the rear of the site.
Location	23, Greenfield Road, Mount Merrion, Blackrock, Co. Dublin, A94 H2P8
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0374
Applicant(s)	Patricia Elliott
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Patricia Elliott
Observer(s)	(1) Mount Merrion Res Association (2) Britt O'Sullivan (3) Tony Lambe and (4) Annelie & Brian Matthews
Date of Site Inspection	27 th November 2019
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	8
5.3. EIA Screening	9
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Planning Authority Response.....	10
6.3. Observations	10
6.4. Further Responses.....	11
7.0 Assessment	11
7.2. Principle	11
7.3. Substandard Access	12
7.4. Piecemeal Development	14
7.5. Other Issues.....	15
8.0 Recommendation.....	16

9.0 Reasons and Considerations..... 16

10.0 Conditions 16

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.0983ha is located to the rear of No 23 Greenfield Road, Mount Merrion, Blackrock, a mature residential area north of Stillorgan Shopping Centre and west of Blackrock Village. Greenfield Road is a relatively low-density residential suburb characterised by semi-detached houses. The appeal site is occupied by a two-storey dwelling with a off street car parking, small attached garage and a large, long rear garden.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail

2.0 Proposed Development

- 2.1. Permission is sought on land to the rear for development consisting of:
 - 1) Demolition of single storey flat roofed garage to side of existing dwelling and ancillary outbuildings/retaining walls within the rear garden (14sqm);
 - 2) Removal of external steps and door leading to dining room of existing dwelling;
 - 3) Construction of 1no. single-storey, two-bedroom pitched-roof dwelling, with 2 no. rooflights to the rear of the site (88.5sqm). It is to be accessed via internal driveway and to be served by 2 no. on-curtilage vehicular parking spaces;
 - 4) Widening of existing vehicular entrance from 2.775m to 3.5m width to provide a shared entrance driveway via Greenfield Road; and a 3.0m wide vehicular access roadway to the proposed new dwelling to the rear;
 - 5) Car parking for 2 no cars will be retained to the front to the existing property and a shared accessway installed on the existing driveway and
 - 6) All associated ancillary works necessary to facilitate the development including SUDS surface water drainage, site works, boundary treatments and landscaping
- 2.2. The application was accompanied by a Cover Letter, Services Report, Planning Report and an Access Arrangement Report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. DLRCC issued a notification of decision to refuse permission for the following two reasons:

- 1) *The provision of a house served by an access which is substandard in width is contrary to Section 8.2.3.4 Additional Accommodation in Existing Built-up Area part (vi) Backland Development, of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and would in itself and by the precedent it would set would endanger public safety by reason of traffic hazard and / or obstruction of road users or otherwise and is therefore contrary to the proper planning and sustainable development of the area.*
- 2) *Having regard to the extent of the overall lands located to the rear of the existing dwellings in the area which this site forms a part of, it is considered that the proposed development would constitute piecemeal development which would mitigate against the comprehensive and orderly development of this backland area contrary to Section 8.2.3.4 Additional Accommodation in Existing Built-up Area part (vi) Backland Development, of the Dun Laoghaire Rathdown County Development Plan 2016-2022 . The proposed development would not constitute an appropriate design response to the development of this serviced and valuable land resource in close proximity to public transport. 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 **Case Planner** recommended that permission be refused for 2 no reasons relating to (1) substandard access that would endanger public safety by reason of traffic hazard and / or obstruction of road users and (2) piecemeal development which would mitigate against the comprehensive and orderly development of this backland area. The notification of decision to refuse permission issued by DLRCC reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Planning** – No stated objection subject to generally standard conditions as set out in their report relating to surface water.
- **Transportation Planning** – Recommended refusal as the proposed development would endanger public safety by reason of traffic hazard of obstruction of road users.

3.3. Prescribed Bodies

- **Irish Water** – No stated objection subject to generally standard conditions as set out in the report.

3.4. Third Party Observations

3.4.1. There are 4 no observations recorded on the planning file from (1) Mount Merrion Residents Association, (2) Britt O’Sullivan, (3) Tony Lambe and (4) Annelie & Brian Matthews.

3.4.2. The issues raised relate to loss of amenity, precedent, access width, loss of character, impact and alteration to streetscape, piecemeal and sporadic backland development, contrary to the Development Plan, unnecessary, traffic impact, security impact, loss of property values, inadequate car parking, construction impact, waste collection, overbearing, inappropriate location, drainage, shared boundary treatment, chimney emissions, services, insufficient drawings and surface water.

4.0 Planning History

4.1. There is no evidence of any previous planning appeal at this location and no planning history for same has been made available with the appeal file.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned **Objective A** where the objective is *to protect and/or improve residential amenity*.

5.1.2. Policies relevant to this appeal are as follows:

Policy RES3: Residential Density - *It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:*

- *'Sustainable Residential Development in Urban Areas' (DoEHLG 2009).*
- *'Urban Design Manual - A Best Practice Guide' (DoEHLG 2009).*
- *'Quality Housing for Sustainable Communities' (DoEHLG 2007).*
- *'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013).*
- *'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG, 2013)*

Policy RES4: Existing Housing Stock and Densification - *It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.*

5.1.3. The following part of **Section 8.2.3.4 Additional Accommodation in Existing Built-up Area** is relevant to this appeal:

5.1.4. (vi) Backland Development

Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. Residential

development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such. Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites within the existing built up area, the following standards will apply:

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

Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development comprising a new dwelling in an established urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

- 6.1.1. The first party appeal was submitted on the 26th August 2019 and has been prepared and submitted by Hughes Planning & Development Consultants on behalf of the applicant and may be summarised as follows:

- The proposed development is in keeping with recent developments in Blackrock, regarding height, scale, bulk and massing.
- The subject site is zoned Objective A where residential development is permitted.
- The development is compliant with Policy 2.1.3.4 of the DLRCC Development Plan 2016-2022 which encourages the densification of the existing suburbs in order to help retain population levels by infill housing
- The proposed development is consistent with Project 2040: National Planning Framework where the target is for at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and / or brownfield site (Objective 35)
- The proposal is also consistent with Rebuilding Ireland, Action Plan for Housing and Homelessness, 2016 which states that “Building a mix of smaller scale and infill development is essential, if we are to deliver on our commitment to create long term sustainable communities and avoid repeating the mistakes of the past”
- The proposed development has been designed to provide its occupants with a high standard of residential amenity in the context of an established urban setting, while safeguarding the residential amenity of adjoining residents

- The proposed development of an appropriate scale, height, bulk and massing so as not to appear overbearing and therefore has limited impacts on the amenity of neighbouring properties and
- Revised design interventions can be conditioned to address concerns regarding the safety concerns raised by the Planning Authority

6.1.2. As set out above and in response to the reasons to refuse permission the applicant has submitted an alternative design *to overcome the refusal reason in respect of the width of the proposed access lane and the ability for emergency services to access the proposed dwelling in times of emergency.* The alternative design option includes alterations to the gable wall and chimney on the eastern façade of the existing dwelling in order to achieve the 3.1m width access lane. The revised drawings also propose the installation of a Dry Riser to be used by the Fire Brigade in times of emergency.

6.1.3. The appeal was accompanied by a letter from Wherity Chartered Surveyors and drawings from Pinnacle Consultant Engineers confirming that the revisions proposed are deemed satisfactory in achieving a laneway which is accessible to fire engines.

6.1.4. With regard to piecemeal development the applicant has submitted a masterplan for the lands to the rear of Greenfield Road outlining the potential for backland development by creating a T-shaped laneway to be accessed via Greenfield Road providing access to these backland sites. This would allow for the future development of these lands with dwellings similar in scale to the proposed dwelling.

6.2. Planning Authority Response

6.2.1. DLRCC refers to the previous planners report and state that the grounds of appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

6.3. Observations

6.3.1. There are 4 no observations recorded on the planning file from (1) Mount Merrion Residents Association, (2) Britt O'Sullivan, (3) Tony Lambe and (4) Annelie & Brian Matthews.

6.3.2. The issues raised relate to no evidence that residents desire such a masterplan, there is a clear uniform design in these John Kenny built houses, removing the garage to insert a road to the back garden will most certainly destroy the symmetry and balance of these pair of houses, the proposal will contribute nothing to the housing stock, revised interventions do not remove safety concerns, piecemeal development, masterplan has no standing, impact to boundary, threat to safety of pedestrians, damage to integrity of established streetscape, inadequate access, Rosehill Development is not a relevant comparison and this is not infill development.

6.4. Further Responses

6.4.1. A copy of the Certificate of Exemption Under Part V of the Planning and Development Act issued by DLRCC was submitted.

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Substandard Access
- Piecemeal Development
- Other Issues

7.2. Principle

7.2.1. Under the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 the site is wholly contained within an area zoned Objective A where the objective is *to protect and/or improve residential amenity* and where residential developments are considered a permissible use.

7.2.2. With regard to Additional Accommodation in Existing Built-up Area I refer to Section 8.2.3.4 Part (vi) Backland Development (as set out in section 5.1 above) where it states that *where the Planning Authority accepts the general principle of backland*

residential development to the rear of smaller, more confined sites within the existing built up area a number of standards shall apply. I have considered these standards and I am satisfied that:

- The proposed dwelling is single storey in height and avoids overlooking of adjoining properties
- The existing dwelling and proposed dwelling have stated private open space of 172.6sqm and 178sqm respectively and are both substantially in excess of the minimum private open space requirements set out
- The proposed single storey dwelling is located 20.315m metres from the rear façade of the existing dwelling, has a rear garden depth of 11.57m and is therefore more than compliant with the minimum requirements set out.

7.2.3. Matters pertaining to vehicular access and the amalgamation of backland sites are discussed separately below.

7.2.4. Overall, I am satisfied that the parent dwelling house and associated reduced private amenity space together with the proposed new single storey backland dwelling and associated private amenity space is compliant with the qualitative and quantitative standards for residential development in terms of private amenity space, floor area and car parking provision as set out in the current development plan. I am further satisfied that the proposed scheme by reason of its location, scale and design will not diminish the residential amenities of adjoining properties by reason of overlooking or overshadowing. Accordingly, the principle of the proposed dwelling house is acceptable at this location.

7.3. **Substandard Access**

7.3.1. DLRCC in their first reason for refusal stated that the provision of a house served by an access which is substandard in width is contrary to Section 8.2.3.4 Additional Accommodation in Existing Built-up Area part (vi) Backland Development and would endanger public safety by reason of traffic hazard and / or obstruction of road users or otherwise. Matters raised in the refusal with regard to endangering public safety by reason of traffic hazard and / or obstruction of road users are in line with the recommendation of DLRCC Transportation Planning and are noted.

- 7.3.2. Section 8.2.3.4 Additional Accommodation in Existing Built-up Area part (vi) Backland Development requires that:
- Adequate vehicular access of a lane width of 3.7m must be provided to the proposed dwelling (3.1m at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- 7.3.3. As part of the development it is proposed to access the new backland dwelling house via an internal driveway to the side of the existing house. In order to facilitate this access driveway, it is proposed to demolish the existing attached garage and ancillary outbuilding / shed in the rear garden. It was further proposed to widen the existing vehicular entrance from 2.775m to 3.5m width in order to provide a shared entrance driveway off Greenfield Road to serve both dwellings.
- 7.3.4. The width of the driveway as submitted with the planning application (site layout plan refers) proposed a driveway width of between 3m and 4.8m (layby). Sections of this access lane, particularly as it passes the eastern gable of the existing house are below the minimum requirements as set out above. However, as part of the appeal submission the applicant has submitted an alternative design in respect of the width of the proposed access lane and the ability for emergency services to access the proposed dwelling in times of emergency. The alternative design option includes alterations to the gable wall and chimney on the eastern façade of the existing dwelling in order to achieve the 3.1m width access lane. The revised drawings also propose the installation of a Dry Riser to be used by the Fire Brigade in times of emergency.
- 7.3.5. In order to achieve the increased width to the eastern gable it is proposed that the house will be corbelled in at ground floor level. Details submitted refer. While this appears to be a significant degree of work relative to the outcome i.e. an additional 0.1m in width at this pinch point, it remains that the applicant in carrying out these works will meet the minimum requirements. With regards to visual impact I do not consider that the works proposed to the existing house will detract from the character and visual amenity of the house or streetscape. Accordingly, I am satisfied that the proposed driveway meets the standards required and that this element of the first reason for refusal can be set aside.

- 7.3.6. Given the urban location of the appeal site within an established residential neighbourhood I am also satisfied that the proposed access arrangements together with the vehicular movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area particularly taking into account the location and scale of the development. Overall, I am satisfied that the proposed development provides for a safe means of access to and from the site which will not result in the creation of a traffic hazard and that the proposed development would function satisfactorily from a traffic point of view. Accordingly, I am satisfied that this particular element of the first reason for refusal can be set aside.
- 7.3.7. Having regard to the foregoing it is recommended that refusal reason no 1 be set aside.

7.4. **Piecemeal Development**

- 7.4.1. DLRCC in their second reason for refusal stated that the proposed development would constitute piecemeal development which would mitigate against the comprehensive and orderly development of this backland area contrary to Section 8.2.3.4 Additional Accommodation in Existing Built-up Area part (vi) Backland Development and that the proposed development would not constitute an appropriate design response to the development of this serviced and valuable land resource in close proximity to public transport.
- 7.4.2. Section 8.2.3.4 Additional Accommodation in Existing Built-up Area part (vi) Backland Development requires that:
- *Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.*
- 7.4.3. In their appeal submission the applicant has submitted a masterplan for the lands to the rear of Greenfield Road outlining the potential for backland development by creating a T-shaped laneway to be accessed via Greenfield Road providing access

to these backland sites. It is stated that this would allow for the future development of these lands with dwellings similar in scale to the proposed dwelling. While there is no evidence to suggest that such a “masterplan” would get “buy in” from adjoining residents affected by the proposal or that there is any support from the planning authority for the scheme, it remains that the applicant has demonstrated that the proposed development currently before the Board is not piecemeal and that to permit same would not prejudice the future development of adjoining lands at this location. In the interest of clarity, I would emphasise that the consideration of the proposed masterplan is outside the scope and assessment of this appeal.

- 7.4.4. Having regard to the foregoing I do not consider the scheme currently before the Board to be piecemeal and nor do I consider that it would mitigate against the comprehensive and orderly development of the wider area. Accordingly, it is recommended that refusal reason no 1 be set aside.

7.5. Other Issues

- 7.5.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the development of a dwelling house and all ancillary works and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 7.5.2. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 Recommendation

- 8.1. It is recommended that permission be **GRANTED** subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the site's location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted 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 and would be acceptable in terms of traffic and pedestrian 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 received by An Bord Pleanála on the 26th day of August, 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 and boundary treatments 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 attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity

6. 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.

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 the 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

Mary Crowley

Senior Planning Inspector

14th January 2020