



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305308-19

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<b>Development</b>	Construction of 2 houses, car parking and all ancillary works.
<b>Location</b>	Rear of 43, Shandon Road, Dublin 7.
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	4752/18
<b>Applicant(s)</b>	Pacelli Lynch.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Christopher Campbell
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	4 <sup>th</sup> December.
<b>Inspector</b>	Sarah Lynch

## 1.0 Site Location and Description

- 1.1. The site is located within an established residential area and is sited within the rear/side garden of no. 43 Shandon Road. The existing property on site comprises a two-storey dwelling which has been extended to the rear. The western elevation of this existing rear extension faces onto the proposed site. The site is bounded by a 2 metre wall and gate to the west, a vacant site to the south, which has planning permission for a dwelling, and the Shandon Mills development to the north.
- 1.2. The surrounding area is characterised by two storey terrace dwellings with large rear gardens and rear access. Car parking is provided both on street and off street to the rear.

## 2.0 Proposed Development

- 2.1. It is proposed to construct the following development:  
2 no. two storey, 2 bedroom dwellings, car parking and access to Shandon Road.

## 3.0 Planning Authority Decision

### 3.1. Decision

Dublin City Council determined to grant permission subject to standard condition.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planners report was consistent with the decision of the Council.

#### 3.2.2. Other Technical Reports

- Drainage Division – no objections
- Roads and traffic – No objection subject to conditions, if the road is to be taken in charge the two car parking spaces will be for public use and not private.

### 3.3. Prescribed Bodies

- TII – The proposed development is within the Luas Cross City Section 49 Levy Scheme.

### 3.4. Third Party Observations

Two observations were received the issues raised are set out in the grounds of appeal.

## 4.0 Planning History

**4533/17** Application for 2 no. 2-storey 2-bedroomed dwellings. Permission Refused for the following reasons:

1. Having regard to the Z2 residential zoning objective for the site – To protect and/or improve the amenities of residential conservation areas - and to the nature, scale and height of the proposed development it is considered that the proposal for two houses would result in substandard useable private amenity space to serve proposed Dwelling Number 1 by reason of inadequate quantity of private amenity space to the rear of the dwelling and lack of a functional relationship between the living areas of the ground floor of dwelling no. 1 and the open space provided to the side of the proposed dwelling. The proposed development, would, therefore, contravene the residential zoning objective for the area, seriously injure the residential amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Z2 residential zoning objective for the site – To protect and/or improve the amenities of residential conservation areas – and to the nature, scale and height of the proposed development, its close proximity to neighbouring boundary at no. 43 Shandon Road, and to the layout of the proposed development in relation this property, it is considered that the proposed development would seriously injure the amenities of No. 43 Shandon Road. The proposed development would significantly detract from the amenities of adjacent private open space by reason of overbearing impact and undue overshadowing. The proposed development, would, therefore, contravene the residential zoning objective for the area, seriously injure

the residential amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

**PL29N.120421:** Permission refused by Dublin City Council and on appeal for 2 no. semi-detached dormer houses with access from recently upgraded road off Shandon Park. Permission refused for the following reasons:

1. The proposed dormer type dwellings would be poorly related to nearby buildings and out of keeping with the character of this Residential Conservation Area. The proposed development would conflict with the Development Plan policies for such residential area and be contrary to the proper planning and sustainable development of the area

2. The proposed development would have a poor quality of amenity space, inadequate car parking space and be lacking in privacy by reason of overlooking for adjoining two-storey dwellings. The proposed development would constitute overdevelopment of the site would seriously injure the amenities of future residents of the development and be contrary to the proper planning and development of the area

3. The proposed development would result in inadequate standards of amenity space, car parking space and privacy for the existing dwellings Number 43 Shandon Road and would, therefore, seriously injure the residential amenities of that dwelling and be contrary to the proper planning and development of the area.

**0797/97:** Permission refused for the erection of two-fully serviced dwellings for the following reasons:

1. The proposed development would result in the construction of two 2 storey houses on part of the site of No.43 Shandon Rd which property is also in the ownership of the applicants. The proposed development would deprive the existing property at No.43 Shandon Road of space required to meet its parking demands. The proposed development would therefore result in on street car parking which would be detrimental to the residential amenities of the area.

2. The proposed two houses would result in serious overlooking of the rear garden of No.2 Shandon Park and would be seriously injurious to the residential amenity of that property.

3. The proposed development would by virtue of their proximity to the boundary of No.45 Shandon Road be visually intrusive and hence detrimental to the amenity of that property.

4. The proposed development would have rear gardens which would be approximately 5.4 metres in length and a width of less than the frontage width of the houses. The proposed development would accordingly result in the over development of the site by virtue of inadequate private open space. The development would also seriously injure the amenity of the remaining private rear garden attached to No.43 Shandon Road by reason of its proximity of the rear of the proposed two

## **5.0 Policy Context**

### **5.1. Development Plan**

Dublin City Development Plan 2016-2022

Land use zoning objective Z2 – To protect and/or improve the amenities of residential conservation areas.

- QH8 – Promote development of vacant sites
- QH22 – New houses to be in keeping with character of existing.
- Section 11.1.5.4 – Architectural Conservation Areas and Conservation Areas.
- Section 11.1.5.5 – Conservation Area – Policy Rationale
- Section 16.6 – Site Coverage
- Section 16.10.8 Backland Development.
- Section 16.10.10 Infill Housing
- Section 16.10.16 Mews Dwellings

National Planning Framework Project Ireland 2040

- Section 2.2 - Compact Growth
- NSO 1 – Compact growth

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018.

- Appendix 1 – Required minimum floor areas and standards

Quality Housing for Sustainable Communities 2007

Section 5 – Dwelling design

## 5.2. **Natural Heritage Designations**

The nearest Natura 2000 sites are as follows:

- The South Dublin Bay and River Tolka Estuary SPA is located c. 720 metres east of the appeal site.
- The South Dublin Bay SAC is located c. 3.3km south east of the site.
- North Dublin Bay SAC and Bull Island SPA are located c. 4km east of the appeal site also.

## 5.3. **EIA Screening**

5.4. Having regard to 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.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of appeal have been submitted by Christopher Campbell who is a resident at no. 40 Shandon Rd. The appeal has been signed by 3 other residents of the area. The issues raised within the appeal can be summarised as follows:

- Owners of no. 43 and 34 sold 3 metres of their garden to developer of Shandon Park Mills in order to construct an access road and footpath.

- Conditions pertaining to permission stated that at no time shall a vehicular access be provided on the upgraded access road.
- The development will not be taken in charge and a management agreement with all future owners shall be entered into with the developer.
- Dublin City Council permitted the development despite these conditions.
- The applicant has no letter of consent to access the proposed development or connect to foul sewer or storm water drainage system.
- There has been 8 applications to develop this site since 1997.
- There are currently 10 people renting no. 43 Shandon Rd, therefore 100sqm of open space should be provided.
- The current open space is shown as 64sqm which is significantly below standard.
- The number of people renting at the property has created parking problems over the years.
- The proposed carparking at the front of the house is not of sufficient depth to accommodate a car.
- The proposal would result in a loss of privacy to no. 2-24 Shandon Park.
- The proposal would result in a loss of light to kitchen and bedroom of no. 43.
- Additional bed spaces would put more pressure on foul water system which is currently overloaded.

## 6.2. Applicant Response

- Genesis Planning Consultants have prepared a response to the grounds of appeal on behalf of the applicant which can be summarised as follows:
- Foul sewerage and surface water will connect to the public mains Irish Water have no objections to this.
- Revised plans have been submitted in response to DCC conditions which show 2no. parking spaces perpendicular to road and removal of bay windows.

- Proposal is in accordance with NPF, RSES and Rebuilding Ireland.
- The proposal is in accordance with the Urban Design Manual – A Best Practice Guide (2009), in that it provides adequate separation distances, responds to character of area, provides for a density of 66.6 per hectare and provides an adequate quantum of open space to serve both the existing and proposed development etc.
- Parking is in accordance with DMURS.
- No requirement for AA.
- Window size to rear can be enlarged.
- Car parking layout is consistent with that approved at no. 34 under planning ref: 3472/17.
- DMURS sight distance can be met.
- Title deeds allow for ingress and egress from the site.
- Proposal is not overdevelopment.
- The site is not used for parking.
- Overshadowing will not occur.
- The renting of no. 43 is irrelevant to the appeal.
- The applicant would be amenable to removal of car parking.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

### 6.5. **Further responses**

The appellant has submitted a response to the applicant's response to the grounds of appeal. The issues raised can be summarised as follows:

- The Board is requested to carefully consider the observations made.

- The appellant welcomes improvements to the Shandon area.
- Objections are based on legitimate planning grounds.
- No. 43 has been rented since the applicant bought it.
- Parking is not appropriate and will cause road safety issues.
- Other issues raised are set out in the grounds of appeal.

## 7.0 **Assessment**

7.1. The proposed development is located within an area subject to the Z2 zoning objective which seeks to protect and/or improve the amenities of residential conservation areas. The principle of residential development is accepted within this zoning objective. It is important to note at the outset that the applicant has submitted revised plans with the appeal in which the car parking layout has been altered and the originally proposed bay windows have been omitted, these items were requested by way of condition on the grant of permission by the Council and the applicant has requested that these revised plans are considered within this appeal. I will consider these plans in the course of the following assessment. I therefore consider the relevant issues pertaining to the proposed development are as follows:

Overdevelopment of the site

Overlooking & overshadowing

Carparking and Access

Appropriate Assessment

Other matters

### 7.2. **Overdevelopment**

7.3. Concerns have been raised by the appellant in relation to the capacity of the site to accommodate 2 no. dwellings, the appellant considers the proposal to be an overdevelopment of the site. The appeal site has an overall area of 0.03 hectares it is proposed to develop a semi-detached pair of mews dwellings with an overall combined area of 185.40sqm. The development will result in a site coverage of 28%. Dublin City Development Plan 2016-2022 permits site coverage of up to 45% in

areas subject to a Z2 zoning objective. However, it is stated within Section 16.6 of the plan that whilst site coverage is a useful indicator of overdevelopment within a site, additional criterion must be assessed in tandem with this particular indicator.

7.4. Other such criterion outlined within this Section of the plan include: the pattern of development within the vicinity, accessibility to public transport and impacts on sunlight and daylight to both proposed and existing development. I consider that the provision of adequate open space and the provision of adequately sized rooms and circulation areas within the property are additional criterion that require assessment with regard to this development.

7.5. I have assessed the proposed development in the context of the foregoing criterion as follows:

- As aforementioned site coverage within the appeal site is 28% which is below the Development Plan standard of 45%. It is of note that site coverage on plots within the immediate vicinity in many instances are similar to that proposed.
- The prevailing pattern of development within the immediate vicinity is compact with car parking provided both off street within rear garages and on street.
- Public transport is highly accessible from the appeal site. The appeal site is located c. 400 metres north east of Cabra which has a high frequency bus service to the city centre and connections to alternative sustainable transport modes.
- The proposed east west orientation of the development, separation distances and the overall height of the development will not negatively impact upon accessibility to adequate levels of both sunlight and daylight for either the proposed development or existing within the vicinity of the site.
- Rear private amenity space is provided for each dwelling with an overall area of 40 sqm and rear garden lengths of under 5 metres. Side access is provided to both units in order to facilitate bin storage. Given the inner suburban location of this site and the quality of the open space provided to serve these 2 bedroom units I considered the level of open space to be adequate.

- Internal room sizes are in accordance with Appendix I of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018.

7.6. Having regard to the foregoing it is clear that the proposed development has been designed adequately and complies with the requirements of both the Dublin City Development Plan 2016-2022 and government guidance in relation to accommodation standards for residential development. As such whilst I acknowledge the restricted area of the site, I consider the development as proposed within this highly accessible inner suburban site to be an acceptable form of development for this site and do not consider the proposal to be overdevelopment.

### **Overlooking**

7.7. It is of note that concerns have been raised within the grounds of appeal in relation to the overlooking of properties along Shandon Park, in particular no. 2-24. I note that the first floor front bedroom windows which will be perpendicular to the rear gardens of these properties will be set back from the nearest property i.e. no. 2 by c. 15 metres.

7.8. At the time of site inspection, I noted a 2 metre boundary wall is present along the full length of the rear garden of no. 2 Shandon Park, in addition I noted that ground levels slope downwards from this property towards the appeal site. Thus, having regard to the separation distance between the front bedroom windows, the existing boundary treatment within these gardens and the change in ground levels, I consider that overlooking would not be significant and would not impact the residential amenities of these properties to such an extent as to warrant a refusal.

7.9. Furthermore, separation distances to the east (rear) of the appeal site towards no. 43 Shandon Road are c. 5.5 metres. I note from the plans submitted that first floor windows within the rear elevation overlooking this property serve bathrooms and are proposed to be fitted with opaque glazing.

7.10. Rear bedrooms will be served by large side windows and rooflights. The issue of overlooking to neighbouring properties therefore does not arise in this instance.

7.11. I note that the appellant has concerns that the proposed development will result in significant overshadowing to the rear of no. 43 Shandon Road. Chris Shackleton Consulting has prepared a sunlight, daylight and shadow analysis on behalf of the

applicant in which it is demonstrated that due to the orientation of the site there is significant overshadowing to this property at present from no. 34. The analysis demonstrates that the proposed development will not significantly exacerbate this situation.

- 7.12. Notwithstanding these findings, it is important to note that infill development at locations such as the appeal site supports the notion of compact growth which is significantly supported by the policies of the National Planning Framework in which it is an objective to deliver at least 40% of all new housing within the existing built up areas of cities. In order to deliver on the principles of compact growth a degree of flexibility must be provided for in relation to issues such as overshadowing.
- 7.13. Therefore having regard to the findings of the Sunlight, Daylight and Overshadowing Analysis and the inner suburban location of the site, I do not consider overshadowing to no. 43 to be significant.

### **Carparking and Access**

- 7.14. Concerns have been raised by the appellant in relation to car parking. It is stated by the appellant that the area is already overcrowded with cars and there are concerns that the proposed development by reason of the additional cars would exacerbate this situation. Further concerns have been raised by the appellant in relation to the size of the proposed parking spaces. It is contended that the proposed spaces are substandard and would result in cars being parked across the footpath.
- 7.15. The applicant had originally proposed parallel car parking and has submitted revised plans with the appeal proposing the omission of the previously proposed bay windows and the provision of 2 no. perpendicular parking spaces. I note that perpendicular spaces were a condition of planning imposed by the Council. Each space has a length of over 5 metres and both are contained fully within the boundaries of the appeal site.
- 7.16. Table 16.1 of the Dublin City Development Plan 2016-2022 permits a maximum of 1 space per 1-2 bed unit. The proposed development is in accordance with these requirements and the proposed parking arrangements have been endorsed by the DCC Transportation Division. The site is highly accessible by public transport and I therefore consider the level of parking provided to be satisfactory.

7.17. Additional concerns were raised by the appellant in relation to the applicant's legal entitlement to provide an access onto this lane. The applicant has submitted a copy of the title deeds for the appeal site in order to demonstrate legal entitlement. Whilst I acknowledge the applicant's response to these concerns it is important to note at this juncture that this is largely a legal matter and is not one that the Board can finally determine. Section 34 (13) of the Planning and Development Act, states that the granting of permission does not entitle a person to carry out development and covers the eventuality that the development cannot be implemented for legal reasons.

### **Appropriate Assessment**

7.18. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.

### **Other Matters**

7.19. The appellants have referred to the renting out of no. 43 Shandon Road and the suitability of the accommodation for 10 people. The status of no. 43 in this regard is not a matter that the Board can adjudicate on. The use of the garden for car parking does not prevent the application for planning permission to alter this use. It is important to note that National Guidance, and the City Development Plan have significantly altered since the development of Shandon Mills. Applicable standards at that time (1992) are not relevant to the assessment of this appeal.

## **8.0 Recommendation**

8.1. It is recommended that permission is granted.

## **9.0 Reasons and Considerations**

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the

conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. 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 appeal, 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 buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area

3. Water supply and drainage arrangements, including the disposal and attenuation 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. Access and parking arrangements shall comply with the requirements of the planning authority for such works. Full details of the proposed footpath and kerb to be dished shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interests of public health and traffic safety.

5. Details of all boundary treatments to be submitted and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of visual and residential amenity for future occupants.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

7. The site and development works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public road, the said cleaning works shall be carried out at the developers expense.

**Reason:** In the interest of orderly development.

8. 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 amenities of property in the vicinity.

9. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

10. 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.

11. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Sarah Lynch  
Planning Inspector

5<sup>th</sup> December 2019