



An
Bord
Pleanála

Inspector's Report 305433-19

Development	Part single-storey, part two-storey dwelling in side garden & new vehicular entrance
Location	58 Tolka Road, Clonliffe Road, D3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3374/19
Applicant(s)	Kieran Hegarty
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Kieran Hegarty
Observer(s)	None
Date of Site Inspection	12 th November 2019
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. No. 58 Tolka Road, Dublin 3 is a two-storey, end-of-terrace, corner dwelling of 70 m², including a single-storey extension to the rear.
- 1.2. The application site is the entire curtilage with a stated area of 217 m². An area of hard standing extends along the side of the property. This area facilitates off-street car parking and is accessed via a vehicular entrance located in the south-east corner of the property boundary. A separate pedestrian entrance is located to the front (south) of the dwelling.
- 1.3. There is a separate yard located to the rear (north) of the dwelling. A single-storey shed structure is located at the end of the yard, adjacent to the neighbouring two-storey property at No. 56 Tolka Road. The yard is separated from the car parking area at the side of the house by a boundary wall of c. 2m in height which includes a dedicated pedestrian entrance gate.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the rear garden shed and the construction of part single-storey, part two-storey dwelling (82 m²) in the side garden, with new vehicular entrances to the front and side.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission issued on 22nd August 2019 for 2 no. reasons relating to: (i) visual impact, and (ii) the impact of car parking on the proposed private amenity space.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. Basis of the Planning Authority's decision.

3.2.3. The Planning Officer noted that the existing dwelling's setback from the side boundary and its alignment relative to the local access road, is mirrored on the opposite corner site at No. 16 Tolka Road. It was considered that the inclusion of an additional dwelling at the end of the terrace would eliminate this setback, resulting in a congested and visually incongruous appearance in the context of the local access road.

3.2.4. The Planning Officer also considered that the current application does not address the Planning Authority's previous concerns in relation to PA Reg. Ref. 2536/19 regarding the amenity value and privacy of the rear garden space.

3.3. **Other Technical Reports**

3.3.1. **Transportation Planning Division:** No objection subject to 4 no. conditions.

3.3.2. **Engineering Department Drainage Division:** No objection subject to 7 no. conditions.

3.4. **Prescribed Bodies**

3.4.1. **Irish Water:** No submission received.

3.4.2. **Irish Rail:** No submission received.

3.5. **Third Party Observations**

3.5.1. None received.

4.0 **Planning History**

4.1. **PA Ref. 2536/19:** Planning permission refused in May 2019 for a part single-storey, part two-storey dwelling in the side garden with new vehicular entrance for 2 no. reasons relating to: (i) visual impact and (ii) the impact of car parking on the proposed private amenity space.

Other Relevant Planning History:

4.2. **PA Ref. 3098/10:** Split decision issued in September 2010 for development at No. 16 Tolka Road. Permission granted for new porch and vehicular access to the front and permission refused for two-storey house in the side garden for 3 no. reasons including: (i) visual impact, (ii) substandard private open space, and (iii) substandard off-street car parking arrangements.

4.3. This site is located opposite and to the north-east of the application site and has a similar side garden layout.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. **Zoning:** The site is subject to land use zoning 'Z1' (Sustainable Residential Neighbourhoods), which has the objective "*to protect, provide and improve residential amenities*". Residential land uses are permissible under this zoning objective.
- 5.1.2. **Policy:** The housing policies of Dublin City Council are contained within Chapter 5 of the Development Plan. Those policies which are directly relevant to this appeal case are identified below.
- 5.1.3. **Policy QH1:** To have regard to the DEHLG Guidelines on '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007), '*Delivering Homes Sustaining Communities – Statement on Housing Policy*' (2007), '*Sustainable Urban Housing: Design Standards for New Apartments*' (2015) and '*Sustainable Residential Development in Urban Areas*' and the accompanying '*Urban Design Manual: A Best Practice Guide*' (2009).
- 5.1.4. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 5.1.5. **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- 5.1.6. **Policy QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

5.1.7. **Section 16.10.2: Residential Quality Standards – Private Open Space**

5.1.8. A minimum standard of 10 m² of private open space per bedspace will normally be applied, with up to 60-70 m² of rear garden area sufficient for houses in the city.

5.1.9. Rear gardens and similar private areas should be screened from public areas, provide safe and secure play areas for children, be overlooked from the window of a living area or kitchen, have robust boundaries, and not back on to roads or public open spaces.

5.1.10. **Section 16.10.9 Corner/Side Garden Sites**

5.1.11. Such development can make valuable additions to the residential building stock of an area and will generally be allowed on suitable larger sites. However, some corner/side gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor-quality independent dwelling, which may also compromise the quality of the original house.

5.1.12. The Planning Authority will have regard to the following criteria in assessing such proposals:

- The character of the street;
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings;
- Impact on the residential amenities of adjoining sites;
- Open space standards and refuse standards for both existing and proposed dwellings;
- The provision of appropriate car parking facilities, and a safe means of access to and egress from the site;
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area;
- The maintenance of the front and side building lines, where appropriate.

5.1.13. **Car parking**

5.1.14. The site is in Area 3 of the city for the purposes of car parking provision. The maximum car parking standard for residential uses in this zone is 1.5 spaces per dwelling.

5.2. **Natural Heritage Designations**

5.2.1. None.

5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development, comprising 1 no. residential dwelling in an established residential 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 grounds of appeal can be summarised as follows:

- A number of precedent cases elsewhere on Tolka Road demonstrate the breaking of established building lines;
- The single-storey element of the proposed dwelling could be omitted if considered appropriate by An Bord Pleanála. The applicant is also willing to implement appropriate boundary treatments and glazing at the direction of the Board;
- No objections in relation to the proposed development have been raised by the Roads Department of the Planning Authority or the local community.

6.2. **Planning Authority Response**

6.2.1. None received.

6.3. **Observations**

6.3.1. None received.

7.0 **Assessment**

7.1. In considering the Planning Authority's refusal reasons and the issues raised in the appeal, I am satisfied that the main issues for consideration in this case include:

- Impact on established building lines;
- Compliance with development plan standards;
- Appropriate assessment

7.2. Each of these issues is addressed in turn below.

7.3. **Impact on Established Building Lines**

7.3.1. The site fronts onto Tolka Road along its southern and eastern boundaries. The side elevation of the existing dwelling is off-set from the front building line of the terrace of dwellings to the rear at Nos. 42 to 56 Tolka Road. This arrangement reflects that of No. 16 Tolka Road on the north-eastern side of the local access road. The footprint of the proposed dwelling would extend beyond the established front building line of the terraced dwellings to the rear. This was considered unacceptable by the Planning Authority's Planning Officer.

7.3.2. In considering the refusal of permission for a two-storey house in the side garden of No. 16 Tolka Road, I note that different development standards applied at that time. I also note that concerns arose in relation to public safety on foot of haphazard vehicular movements associated with the proposed on-site car parking space.

7.3.3. The Planning Authority's Transportation Planning Division has raised no objection in relation to the current application, subject to conditions. As such, a different assessment context applies in this case, including revised development plan standards.

- 7.3.4. The first party appeal identifies precedents for the breaking of established building lines elsewhere along Tolka Road. These include No. 1a Tolka Road, a two-storey, end-of-terrace dwelling which extends beyond the front building line of No. 15 Orchard Road to the rear, and No. 90 Tolka Road, which has a single-storey, side extension.
- 7.3.5. No. 1a Tolka Road is a more regularly shaped site, and in my opinion, is not directly comparable to this case. Notwithstanding the foregoing, I consider that both precedents support the applicant's argument that the building line has been broken elsewhere along Tolka Road.
- 7.3.6. While it is acknowledged that the proposed building footprint would extend beyond the established building line of Nos. 42-56 Tolka Road, I do not consider that any significant negative impact, visual or otherwise, would arise in this instance. The building steps down in height from 2 to 1 storeys, with the single-storey element stepping back from the eastern site boundary, resulting in a subservient building form at this location. While the applicant has expressed a willingness to omit the single-storey element, I consider this amendment is unnecessary and would result in restricted living space at the remaining ground floor level.
- 7.3.7. I also note that a minimum separation distance of c. 7.5 m would arise to the adjoining dwelling to the rear at No. 56 Tolka Road. Given the scale of development proposed and the separation distances which would arise, I do not consider that the proposed development would have an undue negative impact on the setting of the terraced dwellings to the north of the application site.

7.4. **Compliance with Development Plan Standards**

- **Private Open Space Provision**

- 7.4.1. The applicant's cover letter states that a rear garden of 50 m² will serve the new dwelling. Based on an examination of the proposed site plan, I note that this figure likely includes the area of the proposed car parking space. However, the remaining area meets the minimum requirement of 10m² per bedspace based on dwelling size of 3-bedspaces.
- 7.4.2. While screen planting is proposed along the eastern boundary of the garden adjacent to the public footpath, I note that the garden space would be enclosed by the existing low-level boundary wall along its northern boundary. This wall adjoins

the front garden of No. 56 Tolka Road. In my opinion, this arrangement would offer insufficient privacy for the rear garden space and would facilitate overlooking from the adjoining dwelling and public footpath. The introduction of screen planting along the northern boundary would be appropriate to address this issue. This matter can be dealt with by way of condition.

- 7.4.3. The Planning Authority's Planning Officer considered that the current application does not address concerns raised in relation to the previous refusal of permission on the site (PA Reg. Ref. 2536/19) regarding the impact of the vehicular entrance and car parking space on the amenity and privacy of the rear garden space.
- 7.4.4. The proposed development comprises a modest infill dwelling, which reflects the scale of the existing dwellings at this location. I further note that many of the existing dwellings are characterised by small rear garden spaces. Thus, given that the proposed garden space meets the minimum requirements and that adequate privacy can be provided by way of screen planting to the site boundaries, I consider that the amenity and privacy value of the rear garden is acceptable.
- 7.4.5. In considering the remaining rear garden space for the existing dwelling, I estimate that c. 30 m² would remain. I note the Planning Authority's Planning Officer estimated that a space of approx. 26 m² would remain, which was considered to be significantly below the required standard.
- 7.4.6. In my opinion, a remaining rear garden space of c. 30 m² would be acceptable based on a reasonable assumption of 3-bedspaces within the existing dwelling (70 m²) and a minimum open space requirement of 10 m² per bedspace. I also note that the site is located within c. 650 m walking distance to a significant public amenity space at Fairview Park to the south-east.

- **Car parking**

- 7.4.7. The proposed development includes 1 no. off-street car parking space to serve the proposed dwelling and 1 no. new off-street car parking space in the front garden of the existing dwelling.
- 7.4.8. I consider that the provision of a car parking space to facilitate the new dwelling may be unnecessary given the site's proximity to the city centre. In this regard I note that

the development plan refers to a maximum car parking standard of 1.5 spaces per dwelling for this part of the city (Area 3). As such, the level of provision is acceptable.

7.4.9. In addition, the Planning Authority's Transportation Planning Division noted issues with uncontrolled parking on the local access road. As such, it was considered that the proposed off-street car parking space would remove further vehicles from mounting the footpath and would provide for safer pedestrian movements. The proposed off-street car parking arrangements are considered acceptable on this basis.

7.4.10. The Planning Authority's Planning Officer considered that the proposed car parking space would compromise the amenity value of the rear garden space. In my opinion, the proposed arrangement would be acceptable in this instance and would provide a reasonable level of amenity for a dwelling of 3-bedspaces.

- **Conclusion**

7.4.11. In my opinion, the proposed dwelling meets the development plan standards in relation to unit size, private open space and car parking provision, and on that basis, would be in accordance with the proper planning and sustainable development of the area.

7.5. **Appropriate Assessment**

7.5.1. Given that the development is proposed to be connected to the public water supply and drainage networks, and having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

8.1. I recommend that permission be granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the site's location on serviced urban land, the residential land use zoning of the site, 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 residential or visual 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.	<p>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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 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.</p>

	<p>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.</p>
3.	<p>Screen planting of at least 2 metres in height shall be provided and maintained along the northern and eastern boundaries of the rear garden.</p> <p>Reason: In the interest of residential and visual amenity.</p>
4.	<p>A naming/numbering scheme for the dwelling shall be submitted to and agreed in writing with the planning authority prior to the occupation of the dwelling.</p> <p>Reason: in the interest of orderly street numbering.</p>
5.	<p>The new vehicular entrance arrangements shall comply with the requirements of the Planning Authority for such works.</p> <p>Reason: In the interest of traffic and pedestrian safety.</p>
6.	<p>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.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Prior to the commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

Louise Treacy
Planning Inspector

22nd November 2019