



An
Bord
Pleanála

Inspector's Report 305649-19

Development	Demolition of 2 no. single-storey domestic garages/outhouses & the construction of 2 no. semi-detached mews dwellings
Location	50 and 52 Clonliffe Road, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2367/19
Applicant(s)	Martin Grehan
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Kathleen and William Doyle
Observer(s)	None
Date of Site Inspection	27 th January 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 178 m² is located at Nos. 50 and 52 Clonliffe Road, Dublin 3. The 2 no. existing dwellings are end-of-terrace, single-storey over basement level properties, with two-storey returns and single-storey rear extensions.
- 1.2. The site fronts onto Clonliffe Road to the south, Orchard Road to the south-west and north-west and onto a laneway which extends off Orchard Road to the rear and north. A two-storey, semi-detached dwelling known as “Orchard House” adjoins the north-eastern boundary of the site.
- 1.3. The rear gardens of Nos. 50 and 52 Clonliffe Road have been amalgamated. A number of single-storey shed and garage structures extend around the rear and side boundaries of the combined site. A pedestrian entrance gate in the rear boundary wall provides access onto the rear laneway. Uncontrolled, on-street car parking is located along this laneway and Orchard Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of 2 no. existing single-storey domestic garages/outhouses in the rear garden area and the construction of 2 no. 2-storey, 2-bedroom semi-detached mews dwellings fronting onto the rear laneway and Orchard Road, with associated site development works and connections to services. The works include a pedestrian access gate from Orchard Road to the garden area to the side of house no. 1 and from the rear laneway to house no. 2.
- 2.2. As originally proposed, the 2 no. dwellings had pitched-roofs with gable-ended profiles. A hipped roof design was subsequently proposed by way of the applicant's response to Dublin City Council's Further Information Request. The overall height of the dwellings (7.197 m) remains unchanged on foot of the amended roof profile.
- 2.3. The Further Information response also included a Daylight/Sunlight assessment, confirmation that the unit sizes exceed the minimum floorspace requirements, and confirmation that no off-street car parking is to be provided.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued Notification of the Decision to Grant Planning Permission for the proposed development subject to 7 no. conditions on 20th September 2019.
- 3.1.2. Condition no. 3 requires the box bay window to the rear of house no. 2 to be omitted and replaced with a window constructed in the rear boundary wall and permanently fitted with opaque glazing to at least 1.8 m above finished floor level, supplemented with a roof light as required.
- 3.1.3. In attaching this condition, Dublin City Council's Planning Officer noted that the box bay window would result in the direct overlooking of the rear garden of house no. 1. The omission of the bay window and its replacement with a window with obscure glazing in the rear wall, was considered appropriate to avoid overlooking of house no. 1 and the rear gardens of the existing dwellings.
- 3.1.4. Condition no. 4(f) requires a Flood Risk Assessment to be carried out for the proposed development.
- 3.1.5. Condition no. 5(a) requires that no off-street parking is provided in the neighbouring houses to the east of the application site or in the immediate vicinity on Orchard Road/Clonliffe Road. The prevailing pattern of parking standards and front boundary design in the area is also to be maintained. No discussion is included in the Planning Officer's report in relation to this condition.
- 3.1.6. All other conditions are generally standard in nature.

3.2. Planning Authority Reports (18th April 2019 and 20th September 2019)

- 3.2.1. Basis of Planning Authority's decision.
- 3.2.2. **Other Technical Reports**
- 3.2.3. **Transportation Planning Division (10th April 2019 and 9th September 2019)**
- 3.2.4. Recommended that planning permission be refused on the basis of no off-street car parking provision, which, it was considered, would give rise to unacceptable levels of on-street parking in the vicinity, would seriously injure the amenities of the area and,

would endanger public safety by reason of traffic hazard and obstruction of road users.

3.2.5. In the event planning of permission being granted for the proposed development, recommended that 2 no. conditions be applied relating to costs associated with works to the public road and compliance with the Code of Practice.

3.2.6. **Engineering Department Drainage Division (21st March 2019 and 30th August 2019)**

3.2.7. No objection to the proposed development subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** None received.

3.3.2. **Irish Rail:** None received.

3.4. **Third Party Observations**

3.4.1. Three third party observations were made on this application from: (i) Joseph McCabe of No. 48 Clonliffe Road, Dublin 3; (ii) Brendan and Monica McEvatt (& others) of No. 10 Orchard Road, Dublin 3; and, (iii) Kathleen Doyle, Orchard House, Orchard Road, Dublin 3.

3.4.2. The points raised in these submissions include: overdevelopment of the site; inadequate separation distances; excessive height; overbearing and overshadowing impacts; inadequate open space; drainage and flooding impacts; increased parking demand; reduced amenity value of the laneway to the rear of the site; construction impacts; and, loss of light to neighbouring dwellings.

4.0 **Planning History**

4.1. None.

5.0 **Policy and Context**

5.1. **Dublin City Development Plan 2016-2022**

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. **Housing 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. The target gross floor area for a 2-storey, 2-bedroom/3-person house as per the *Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007) is 70 m².
- 5.1.5. **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.
- 5.1.6. **Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- 5.1.7. **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.
- 5.1.8. **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.
- 5.1.9. **Section 16.10.2: Residential Quality Standards – Private Open Space**
- 5.1.10. 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.

5.1.11. **Mews Dwellings:** The Planning Authority will encourage the unified development of mews laneways. Building heights will generally be limited to two storeys, with one off-street car parking space required for each dwelling. Mews laneways should have a minimum carriageway width of 4.8 m or 5.5 m where no verges or footpaths are provided. Private open space shall be provided to the rear of the mews building and shall be landscaped to provide for a quality residential environment. The depth of the open space for the full width of the site will not generally be less than 7.5 m and where provided, the requirement for 10 m² of private open space per bedspace may be relaxed. A separation distance of 22 m should be maintained between opposing windows but may be relaxed due to site constraints.

5.1.12. **Backland Development:** The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. Applications for backland development will be considered on their own merits.

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 2 no. residential dwellings 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. An appeal has been lodged by Kathleen and William Doyle, Orchard House, Orchard Road, Dublin 3, the grounds of which can be summarised as follows:

- The windows in the side elevation of Orchard House, which adjoins the subject site, have enjoyed light from the site for over 100 years. The proposed development will have a devastating effect on the amount of light reaching the windows, with one being the sole window to the rear bedroom of this property;
- Unit no. 2 of the proposed development has windows in the side elevation directly opposite the rear bedroom window of Orchard House. The conditions attached to the permission do not require obscure glazing to be provided to this window;
- The ground floor plan conflicts with the deed plan for Orchard House in the location of the proposed bin storage area;
- The existing garages to the rear of the site currently provide parking for Nos. 50 and 52 Clonliffe Road. The loss of this parking will compound parking problems on Orchard Road, with no Dublin Bus services, bus corridor or cycle lanes provided on Clonliffe Road;
- The development may cause a recurrence of previous flooding problems experienced in the area;
- The construction impacts of the development would have an adverse impact on the residential amenities of the community in Orchard Road.

6.2. Applicant Response

6.2.1. A response to the third-party appeal was lodged by Stephen Molloy Architects on 15th November 2019 on behalf of the applicant, which can be summarised as follows:

- The development has been set back from the neighbouring property Orchard House to leave sufficient space for ventilation and daylight to the 3 no. established windows located on the site boundary. The application seeks to provide reasonable development on the application site and to maintain the status quo in a fair manner to both parties;
- A separation distance of 1 m from the neighbouring property is reasonable and reflects a suburban layout standard rather than an inner-city standard;

- The applicant is willing to accept a condition which requires that obscure glazing be provided in the side window facing Orchard House;
- There will be no additional restricted access to Orchard House on foot of the proposed development. There is an existing side gate on the applicant's land adjacent to Orchard House and a similar arrangement is proposed on foot of this application;
- The query which has been raised regarding the extent of the applicant's landownership at this location is a civil matter which will be resolved outside of this planning application. The side entrance is noted to have been in the sole possession of the applicant and his predecessors for over 100 years;
- Any future occupants of the proposed dwellings will be aware that no car parking has been provided and will be happy to occupy the dwellings on that basis. Bicycle parking has been facilitated as a sustainable transport mode;
- The applicant provided a comprehensive flood assessment report as part of the original submission. The development will not cause flooding in the area and no greater extent of hard surface area is proposed compared with the current situation;
- The proposed development complies with the site's zoning objective, the development plan and national planning policy regarding sustainable residential development in urban areas, with many precedents for such development in the area;
- The proposal represents a high-quality design which will not result in overlooking or overshadowing and which will not injure the character or visual amenity of the area.

6.3. Planning Authority Response

6.3.1. None received.

6.4. Observations

6.4.1. None received.

6.5. Further Responses

- 6.5.1. A further response was received from the appellant on 11th December 2019. No new issues were raised.

7.0 Assessment

- 7.1. I am satisfied that the main issues for consideration in this case include:

- Impact on Neighbouring Properties
- Car Parking
- Flooding
- Appropriate Assessment

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

7.3. Impact on Neighbouring Properties

- **Orchard House**

- 7.3.1. The appellant's property "Orchard House" adjoins the north-eastern boundary of the application site and has 3 no. windows in its side elevation facing the side elevation of proposed house no. 2. A separation distance of 1 m is proposed between both properties. The appellant submits that the proposed development will have a significantly negative impact on the amount of light received to their windows, with one being the sole window to the rear bedroom, which will be rendered unusable. It is noted that there are no windows to the rear elevation of the appellant's property.
- 7.3.2. The applicant submitted a Sunlight, Daylight and Shadow Assessment in response to Dublin City Council's Request for Further Information to determine the impact of the proposed development on the adjoining property. This assessment examined the existing windows of the neighbouring property for: (i) impact/change for skylight (VSC); (ii) impact/change for annual and winter probably sunlight hours (APSH); and, (iii) impact/change on sunlight/shadow in existing amenity spaces. The results of this assessment conclude that the proposed development complies with the requirements of the BRE guidelines in relation to skylight availability to the front façade and gable windows of Orchard House and sunlight availability to living spaces and amenity areas.

- 7.3.3. While it is acknowledged that the window configuration to the side elevation of Orchard House is somewhat unusual, it is considered that a balance must be achieved in facilitating an increased density of development on this residentially zoned site, whilst safeguarding the amenities of the neighbouring property. The proposed development has been set back by 1m from the side elevation of Orchard House, and, notwithstanding the existing windows in the side elevation of this property, this is considered a reasonable separation distance on an inner suburban, infill site.
- 7.3.4. While the appellant submits that their property has had the benefit of light from the subject site for over 100 years, this matter is not for adjudication under this appeal case. Notwithstanding the foregoing, it is noted that the gable-ended roof design as proposed by way of the applicant's Further Information response, will likely improve the availability of light to the side elevation of Orchard House compared with the pitched roof design originally proposed.
- 7.3.5. The appellant notes that the planning conditions attached to the Planning Authority's Notification of the Decision to Grant Permission do not require obscure glazing to the windows in the side elevation of house no. 2. These windows serve a bathroom at the ground floor level and the hallway landing at the first-floor level. As such, it is considered reasonable that such glazing be provided to avoid any undue overlooking. It is noted that the applicant has expressed their willingness to comply with this requirement, which can be addressed by way of condition.
- 7.3.6. The proposed bin storage area serving proposed house no. 2 abuts the side elevation of Orchard House. This arrangement has the potential to have noise and odour impacts on the neighbouring property by reason of its proximity to the existing windows. As such, it is considered that the bin storage area should be relocated to the rear garden area to reflect the waste storage arrangements of house no. 1. This matter can be addressed by way of condition.
- 7.3.7. The appellant submits that the ground floor plan of the proposed development is at odds with the deed plan for Orchard House with reference to the proposed bin storage area. I note that this is not a relevant planning consideration and draw the Board's attention to Part III, S. 34(13) of the Planning and Development Act, 2000

(as amended) which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

- **Nos. 50 and 52 Clonliffe Road**

7.3.8. A box bay window is proposed to the rear, first-floor bedroom of proposed house no. 2 in order to avoid potential overlooking of the existing dwellings. Obscure glazing is also proposed to the rear, first-floor bedroom window of proposed house no. 1. Condition no. 3 of the Planning Authority's Notification of the Decision to Grant Planning Permission requires the omission of the box bay window of house no. 2 and its replacement with a window in the rear boundary wall, which is to be permanently fitted with obscure glazing, and supplemented with a roof light as required.

7.3.9. In considering the potential for overlooking impacts to occur, it is noted that a separation distance of 16.7 m would arise between the rear, first-floor levels of the existing and proposed dwellings, which is considered reasonable in the context of an infill urban site. It is further noted that the building footprints of Nos. 50 and 52 Clonliffe Road are off-set from that of the mews dwellings and that screen planting is proposed to the rear boundaries of the proposed dwellings, both of which will serve to reduce the potential for direct overlooking.

7.3.10. It is considered that the proposed box bay window to the rear of house no. 2 is an unnecessary design feature which would result in the direct overlooking of the rear garden of house no.1. As such, it is agreed that the inclusion of a standard bedroom window in the rear wall of house no. 2 would be appropriate as identified by the Planning Authority. It is further considered that the provision of obscure glazing in the rear bedroom windows of both houses would serve to diminish the residential amenity of these rooms, with transparent glazing considered to be acceptable in this site context. The provision of opaque glazing to the rear, first-floor bathroom windows of both dwellings would be appropriate in the interests of residential amenity. These matters can be addressed by planning condition.

7.4. **Car parking**

7.4.1. The appellant submits that the existing garages to the rear of the application site provide parking for Nos. 50 and 52 Clonliffe Road and that the loss of this parking

would compound parking problems on Orchard Road. The appellant notes that no Dublin Bus services, bus corridor or cycle lanes are provided on Clonliffe Road.

- 7.4.2. The Transportation Planning Division of Dublin City Council recommended that planning permission be refused for the proposed development on the basis that it would give rise to unacceptable levels of on-street parking in the vicinity, would seriously injure the amenities of the area and would endanger public safety by reason of traffic hazard and obstruction of road users. In considering this recommendation, Dublin City Council's Planning Officer noted the site is close to a number of bus routes, the DART, and is within cycling/walking distance to the city centre and a number of universities. On balance, the Planning Officer considered that the proposed development would not exacerbate the uncontrolled parking in the area and as such, the absence of dedicated off-street car parking was considered acceptable.
- 7.4.3. The on-street car parking in the area was observed to be heavily subscribed during the site inspection. However, it is agreed that the site is within walking distance of train and bus services operating along Drumcondra Road to the west and North Strand Road to the east. The site is also located within approximately 1.5km of O'Connell Street and the North Docklands, and as such, is within reasonable walking distance of employment centres. It is considered that the management of the uncontrolled car parking in the area could be dealt with separately and that the refusal of permission for an infill development on suitably zoned land close to the city centre on the absence of car parking alone, would not constitute a reasonable refusal reason in this instance.
- 7.4.4. Condition no. 5 (a) of the Notification of the Decision to Grant Permission requires that "no off-street parking is provided in the neighbouring houses to the east of the application site or in the immediate vicinity on Orchard Road/Clonliffe Road. The prevailing pattern of parking standards and front boundary design in the area is maintained". While the Planning Officer's report does not include any discussion in relation to this condition, it is reasonable to assume it is intended to address the Transportation Planning Division's concerns regarding uncontrolled parking in the area. However, a review of the Site Location Map confirms that the applicant does not control the lands which are referenced in this condition. As such, the attachment

of this condition is considered inappropriate should planning permission be granted in this instance.

7.5. Flooding

7.5.1. The appellant submits that the proposed development may cause a recurrence of previous flooding problems in the area. In response, the applicant's agent states that a comprehensive flood assessment report was provided as part of the original planning application submission. The applicant's agent further submits that the development will not cause flooding in the area and that no greater extent of hard surface area is proposed compared with the existing situation.

7.5.2. In considering the foregoing, it is noted that the roads and drainage report which accompanies the application does not include any assessment in relation to flood risk. However, the Drainage Division of Dublin City Council had no objection to the proposed development subject to conditions, including the undertaking of an appropriate Flood Risk Assessment in accordance with OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment. This requirement is considered reasonable should planning permission be granted in this instance.

7.6. Appropriate Assessment

7.6.1. 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 planning 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, as amended by the further plans and particulars submitted on 26th 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 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</p>

	<p>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>(a) The proposed box bay window to the 1st floor bedroom of house no. 2 shall be omitted and replaced with a window constructed in the rear wall to reflect the bedroom window arrangement of house no. 1.</p> <p>(b) Transparent glazing shall be provided in the rear 1st floor bedroom windows of house no. 1 and house no. 2</p> <p>(c) Obscure glazing shall be provided in the rear 1st floor bathroom windows of house no. 1 and house no. 2.</p> <p>(d) The ground and first-floor windows in the side elevation of house no. 2 shall be permanently maintained in obscure glazing</p> <p>Reason: In the interests of residential amenity.</p>
4.	<p>The proposed bin storage area of house no. 2 shall be relocated and maintained in the rear garden area of the dwelling.</p> <p>Reason: In the interests of residential amenity.</p>
5.	<p>A naming/numbering scheme for the dwellings 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>
6.	<p>(a) 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>(b) The developer shall ensure that an appropriate Flood Risk Assessment, in accordance with OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment, is carried out for the proposed development.</p>

	Reason: In the interest of public health.
7.	<p>Prior to the commencement of development, the developer shall enter into water and/or wastewater 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>
9.	<p>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 the 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.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

Louise Treacy
 Planning Inspector

7th February 2020