



An  
Bord  
Pleanála

## Inspector's Report ABP-306055-19.

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<b>Development</b>	Demolish dwellinghouse and construct 3 no. dwellinghouses in terrace.
<b>Location</b>	54 Nephin Road, Dublin 7.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3313/19.
<b>Applicant</b>	Ciara Roche.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Garry and Anna Carroll.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	16 <sup>th</sup> March 2020.
<b>Inspector</b>	Mairead Kenny.

## 1.0 Site Location and Description

- 1.1. The site is at the junction of two residential streets located off the Navan Road in north Dublin city. Nephin Road forms the western site boundary and to the south is Croaghpatrick Road. The stated site area is 614 m<sup>2</sup>.
- 1.2. The architectural character of the area is diverse although the residential use is dominant. At the junction of the Nephin Road and Navan Road is a three storey nursing home building in contemporary design idiom. At the opposite side of the road to the site are single storey brick cottages in terraces. To the east the main building form is two-storey terraced housing. The designs and finishes show considerable diversity.
- 1.3. On site is a single storey dwellinghouse which is situated to face to the south-west at an angle to the two roads. The stated floor area of the existing house is 82.3 m<sup>2</sup>. The subject site slopes generally from east to west. The existing vehicular entrance is from the corner of the site.
- 1.4. Photographs which were taken by me at the time of my inspection are attached.

## 2.0 Proposed Development

- 2.1. Permission is sought for:
  - demolition of the existing house
  - construction of 2 no. two-storey three-bedroom dwellinghouses and 1 no. three-storey four-bedroom house with balcony at second floor level
  - access from Nephin Road
  - one car park space per dwellinghouse
  - all site works including boundary treatments and connections.
- 2.2. A further information response was received by the planning authority on the 8<sup>th</sup> of October 2019.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission subject to conditions including:

- financial contribution under scheme
- construction phase requirements and hours of operation
- roads, footpaths and related requirements
- naming and numbering of dwelling units
- drainage requirements and codes of practice
- compliance with British standards in relation to construction noise control.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The original planner's report raised issues relating to the proposed balcony, consent relating to works to the shared boundary and details of all boundary treatment, a street tree and surface water management. It was also noted that:

- The area has a mix of housing typologies.
- The elevational treatment has been modulated by gradually stepping forward the dwellings from the building lines on the two streets, similar to the approach successfully adopted at the nursing home development.
- The balcony was considered to be not in keeping with the character and scale of the dwellings in the area.
- The shadow study included indicates potential for overshadowing during spring equinox and demonstrates there may be minor overshadowing at the rear of 56 Nephin Road.
- Based on the orientation of the dwellings and the positioning of windows the development will not result in excessive overlooking of private open space to the rear of number 56 Nephin Rd. The separation from the proposed dwellings to the dwelling at 48 Croaghpatrick Rd is below 22 m but this

standard may be relaxed and in this regard it is noted that there is one window at first floor level to the side of number 48 which has a south-westerly orientation towards Croaghpatrick Road and it is considered unlikely that this window will result in undue overlooking to the rear of the proposed dwellings or that the proposed dwellings will result in excessive levels of overlooking to the rear of that existing property.

- The floor areas and spaces comply with the development plan and national guidance.
- The increased height in the shared boundary wall has been objected to.
- Tree protection measures may be required.
- The Drainage Division has raised certain issues for clarification.

The final planner's report notes:

- the balcony is omitted
- existing boundaries are now proposed to be retained
- details of heights, materials and elevations of boundary treatments are shown and are acceptable
- an exclusion zone around a street tree has been proposed
- surface water management has been resolved to the satisfaction of the relevant department
- permission should be granted.

### 3.2.2. Other Technical Reports - Final

Drainage Division - no objection subject to standard conditions.

Roads and Traffic Planning – no objection subject to conditions.

### 3.3. Prescribed Bodies

No reports.

### 3.4. **Third Party Observations**

The substantive matters which were raised in the third party objections refer to:

- loss of residential amenity
- scale and dominance would negatively impact privacy and amenity
- overlooking, including proposed separation distance of 9 m between unit 1 and 48 Croaghpatrick Rd
- does not comply with the zoning objective
- not in keeping with the character of surrounding area
- overdevelopment, excessive and overbearing appearance
- elevated nature of site noted
- increase in height of boundary wall to east would result in overshadowing and overbearing
- shadow analysis is not accurate and is insufficient in terms of assessment of evening sunlight as it does not go beyond 15:00 hours
- 2 no. houses would be preferable
- inadequate parking and traffic hazard
- existing drainage problems in area
- contrary to development plan policies.

### 4.0 **Planning History**

There is no relevant planning history related to the subject site or the sites in the immediate vicinity.

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

The site is zoned Z1 the objective of which is 'to protect, provide and improve residential amenities'.

Section 16.10.10 refers to making sustainable use of land and existing infrastructure by providing for development of infill housing on appropriate sites. Some standards may be relaxed in certain limited circumstances. Infill housing should have regard to existing character by paying attention to building line, proportion, heights, parapet levels and materials and complying with appropriate minimum habitable room sizes and ensuring safe means of access and egress.

Section 16.2.1 refers to design principles including that development respond creatively to and enhance the context and have regard to the character of adjacent buildings, scale and pattern, materials, detailing and other matters.

Section 16.2.2.2 refers to infill development.

QH8 refers to promoting sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect to the design of the surrounding area and its character.

## **5.2. Natural Heritage Designations**

There are no European sites in the immediate vicinity.

## **6.0 The Appeal**

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

The main points of the third party appeal include

- the three-dimensional images presented are in isolation and do not indicate the context and are therefore of little value
- the development would break the established building line and negatively impact on the amenity of the patio areas to the rear of 48 Croaghpatrick Rd through overshadowing and overlooking
- that patio receives only evening light as it is north facing
- only two of the five windows on the ground floor of number 48 are shown on the plans

- the windows above first floor are 9 m to the boundary and will overlook and reduce amenity to number 48
- we suggest a condition restricting the normal exempted development classes
- a condition should be applied to restrict the placement of any air to heat water pumps and that they be away from the common boundary
- working hours should commence at 0800
- the shadow analysis did not address the evening sunlight
- the original proposal sought an increase in the shared boundary wall without consent.

## 6.2. Applicant Response

The main points of the response include:

- as supplementary information three-dimensional images were provided
- contextual elevations indicate that overall heights are similar in proportion and height to existing buildings and do not increase the overall street heights
- the planning authority acknowledges that the buildings have been designed to modulate the façades and unit 1 picks up the building line on the Nephin Road and steps towards the corner
- the design addresses both Nephin Road and Croaghpatrick Road
- the separation distances at this corner infill site are considered reasonable
- the materials are characteristic of dwellings in the area expressed in a more contemporary fashion
- modelling and articulation enhance the appearance and outlook
- there is no requirement that eaves details be replicated
- the flat roof at the corner of unit 3 will not be used as the balcony and the handrails were removed following a further information request and the parapet height lowered

- the main west facing elements of 48 Croaghpatrick Rd have brick façades with no windows facing the application site
- there is a 19.5 m distance between the first floor opposing walls to unit two and the opposing first floor area of the front section of number 48 has no windows
- unit 3 is not directly opposing
- a condition with regard to the requirement for planning applications for normally exempted development would be accepted
- the applicant has no objection to amendment of the condition and working hours.

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

No substantive response has been received from the planning authority.

### **6.4. Observations**

None.

### **6.5. Further Responses**

None.

## **7.0 Assessment**

I consider that the issues in this case relate to the principle of the development, the impact on residential amenities and the design of the development.

### **7.1. Principle and Density**

In principle I would support the re-development of this site which contains a small single storey house and is positioned in an area of mixed architectural character and close to a public transport route of reasonable frequency and capacity.



The assessment of density is most appropriately considered in terms of a qualitative approach. Subject to not adversely impacting on the residential amenities of the adjacent properties, the proposed 3 no. houses would appear to be broadly acceptable.

## **7.2. Impact on residential amenities**

The appellant who resides at number 48 Croaghpatrick Rd has raised a number of issues which fall broadly under the heading of residential amenity and which I address below.

The appellant has identified issues relating to the proximity of the proposed development to the subject dwelling house. The appellant resides to the east and I refer to the contiguous elevation which shows the proposed development and number 48 (drawing 1815 – PLA – 20). Refer also to the site layout drawings which clearly show the distances from the proposed development to the rear site boundary. I note that the layout presented generally provides for 9 m minimum distance from the rear of the houses to the rear boundary. By contrast the house in which the appellant resides is very close to the shared boundary.

I consider that it would be inappropriate to unduly restrict the development of the subject site by requiring a further setback from the rear boundary. Having regard to the simple fenestration shown in the south-east elevation, together with the rear garden length proposed I do not consider that the subject development would be deemed to be visually intrusive or overbearing or give rise to unreasonable overlooking of the appellant's house.

Regarding overshadowing of the patio areas to the rear of 48 Croaghpatrick Rd I consider that it is appropriate to draw similar conclusions. The subject development due to its position to the west of the dwelling house at number 46 may give rise to some increased overshadowing of the amenity space associated with the appellant's house. However, in balancing the protection between the amenities of the existing residents and the need to make efficient use of urban lands some compromises in standards will arise and the development plan makes provision in that regard. In assessing the degree of overshadowing I consider that it is reasonable again to have

regard to the setback of over 9 m from the side boundary of number 46. I conclude that the development is acceptable in that regard.

Regarding the potential for construction of other development as exempted development, I recommend that this be addressed by condition in the interest of residential as well as visual amenities.

In relation to construction noise disruption commencement of work at the hour of 0800 appears reasonable and can be addressed by condition.

Subject to the above I consider that the development is acceptable in terms of residential amenities. In this regard I note also the other letters of objection and have taken these into account.

### **7.3. Building line, height and design**

The development plan in supporting efficient use of land including at corner sites and on infill sites, also sets out a requirement that new development 'have regard to' a number of criteria. These criteria include consideration of the building line and the character and nature of existing built fabric.

I consider that in terms of the views from the public realm the breach in the building line is acceptable. In this regard I refer the Board to the general lack of uniformity, which is something of a characteristic of this area. There is also an absence of conservation objectives. The stepped building line formed by the modulated façades to the rear has been referenced by the applicant in submissions which include a three dimensional image of the proposed development. I agree with the planning authority's assessment that the building line is acceptable.

Regarding the architectural character in the area I have already referred to its highly diverse nature and consider that the proposed contemporary design approach is acceptable in this context.

Regarding the height and mass, these aspects of the development have to be considered in the context of the topography in the area including the slope of the site towards the western corner at the junction of the two roads. The elevation drawings clearly set out the relationship of the proposed development with the two houses which are adjacent and in my opinion it can be satisfactorily assimilated. In terms of

the wider streetscape and the prominent nature of this site, which is elevated, I refer the board not only to the nursing home on the Navan Road but also to the older housing scheme which is located to the south west of the subject site.

Therefore, in the context of the existing built form I am satisfied that the height and mass as well as the architectural approach to the development are acceptable. I consider that the proposed development will satisfactorily provide for the development of further housing at this corner site and that the appeal cannot be sustained.

#### **7.4. Other Issues**

- 7.4.1. The development would provide for the residential amenities for future occupants.
- 7.4.2. The proposed development would be on a service site and issues relating to surface water management have been resolved during the course of consideration of the application by the planning authority.
- 7.4.3. I consider it appropriate in the circumstances of this case to limit the normal exempted development provisions. This can be addressed by condition. I do not propose to address the matter of the heating system.
- 7.4.4. A certificate of exemption in relation to the requirements for social and affordable housing has been provided. As such I consider there is no requirement for a standard planning condition on this matter.

#### **7.5. Appropriate Assessment**

Having regard to the nature and scale of the proposed development, nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and proximity to the nearest European sites, I am satisfied that 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.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area including the variation in building designs and building lines in the vicinity, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information received on the 8<sup>th</sup> of October 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. The external material, colours and finishes on the proposed development shall match/harmonise with existing house on the site.

**Reason:** In the interest of visual amenity.

3. 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.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

5. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 13.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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 interests of sustainable waste management.

7. There shall be no use of any roof space as a balcony.

**Reason :** In the interest of clarity and visual and residential amenities.

8. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

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

9. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Mairead Kenny  
Senior Planning Inspector

17<sup>th</sup> March 2020