



An
Bord
Pleanála

Inspector's Report

ABP-306375-20

Development	Construction of 2-storey dwelling and associated site works
Location	76 Fortawn Drive, Fortlawn, Clonsilla, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW19B/0134
Applicant(s)	Seamus Dolan
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Seamus Dolan
Observer(s)	None
Date of Site Inspection	7 th of May 2020
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject site is located in the Fortlawn residential area to the south west of the R121 and Blanchardstown Shopping Centre. It is a corner site at the junction of Fortlawn Drive, which is cul de sac development accessed via Mount View Road. The proposed development is to be located in the side garden to the north of end of terrace No.76 Fortlawn Drive. The site is located within an area of similarly designed two storey terrace and end of terrace dwellings.
- 1.2. It is a narrow site and has a stated area of 0.036ha. There is a low wall around the northern and eastern site boundaries and footpath along the boundary with the public road. There is a higher block wall along the rear boundary and gated access to the short lane to the rear. End of terrace no. 77 Fortlawn Drive is to the west.

2.0 Proposed Development

- 2.1. This proposal is to comprise the following:
 - (1) To erect a new two-storey end of terrace dwelling house on a corner site at the side of no.76 Fortlawn Drive and ancillary site works;
 - (2) To re-use the existing vehicular entrance gates and drive-in at front of no.76 Fortlawn Drive for shared drive-in with new dwelling;
 - (3) To reposition existing outfall manhole on site and re-route existing private foul sewer collection drain at rear of dwellings for new connection to public foul sewer in footpath.
- 2.2. Documentation submitted includes:
 - A letter from Martin Brennan Architecture Ltd, providing a rationale for the proposed development.
 - Drawings including a Site Layout Plan, Floor Plans, Elevations and Sections have been submitted.

3.0 Planning Authority Decision

3.1. Decision

On the 20th of December 2019 Fingal County Council refused permission for the proposed development for the following reasons:

1. The development, having regard to the design of the end of terrace dwelling proposed and the extent of its projection forward of the established terrace to the west of the site on Fortlawn Drive, would seriously injure the amenities of the area and would infringe an existing building line. The development would therefore be contrary to the proper planning and sustainable development of the area.
2. Proposals submitted as part of this application indicate that an existing manhole will be relocated/sewer diverted in order to achieve the required minimum setback from existing Irish Water owned infrastructure. It is unclear if these measures may be successfully implemented on site in accordance with the requirements of Irish Water. In the absence of satisfactory information to address the foregoing, the development proposed would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planner's Report

This has regard to the locational context of the site, planning history and policy and to the Departmental Reports. Their Assessment includes the following:

- The principle of the proposed development is acceptable within the residential zoning, subject to compliance with development plan policies and objectives.
- The design of the proposed dwelling remains substantially similar to that previously refused in Reg.Ref. FW18/0097.
- The proposed development is forward of the building line to the west and would detract from the visual amenities of the area and the streetscape on Fortlawn Drive.

- There would be overlooking to the front garden area of no. 77 Fortlawn Drive.
- The proposed dwelling complies with Objective DMS24 and Tables 12.1 and 12.3 in relation to minimum house and room sizes. It also complies with private open space standards.
- It is proposed to use to the existing vehicular entrance to no. 76 Fortlawn Drive. The Transportation Department requires separate vehicular access for each house.
- They have regard to the A.I requested by Irish Water and note issues about the relocation of the foul sewer manhole/diversion of the sewer on site and consider insufficient information has been submitted.
- They do not consider 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.
- They conclude noting their concerns about the breach of the building line to the rear of the site on Fortlawn Drive and the impact on the visual amenities of the streetscape. Also, concerns about insufficient information being submitted relative to the diversion of the foul sewer.

3.3. Other Technical Reports

Transportation Planning Section

They request a revised layout to show that each unit has its own separate access. They have no objections subject to conditions.

Irish Water

They have no objections to surface water drainage subject to compliance with current standards and the incorporation of SuDS. They recommend conditions.

The Parks Division

They have no objections to the proposed development.

3.4. **Prescribed Bodies**

Irish Water

They request that the Applicant submit revised drawings indicating compliance with minimum 3m separation distances from the foul sewer.

3.5. **Third Party Observations**

None noted on file.

4.0 **Planning History**

Reg.Ref.FW18A/0097 – Planning permission refused to Seamus Dolan for a two-storey end-of-terrace dwelling house at the side of existing terraced house and ancillary siteworks at 76, Fortlawn Drive, Fortlawn, Clonsilla, Dublin 15. The Council's reason for refusal was:

1. The proposed development by reason of its proximity to an existing foul sewer manhole from which a maximum clear distance of 3m must be retained, would compromise the functioning and maintenance of this infrastructure and would as a result be prejudicial to public health and therefore would be contrary to the proper planning and sustainable development of the area.

5.0 **Policy Context**

5.1. **National Policy**

- Project Ireland 2040 National Planning Framework (2018).
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide, (DEHLG 2009).
- Design Manual for Urban Roads and Streets (DMURS) (DHPLG and DTTS 2019).

5.2. Fingal Development Plan 2017-2023

Zoning

The site lies within an area zoned 'RS' which has an objective to: *“provide for residential development and protect and improve residential amenity”*

The vision seeks to: *Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity.*

Placemaking

Chapter 3 refers to Placemaking and includes regard to infill, corner and backland sites and to extensions.

Objective PM44 seeks to: *Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.*

Objective PM45 seeks to: *Promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area.*

Development Standards

Section 12.4 provides the Design Criteria for Residential Development. This includes that all new dwellings shall comply with Development Plan standards in relation to accommodation size, garden size and car parking.

Objective DMS24 – *Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3.*

Objective DMS28 has regard to Separation distances.

Objective DMS30 to Sunlight and Overshadowing.

Objective DMS39 provides: *New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.*

Objective DMS 40 provides that new corner site development shall have regard to the following:

- *Size, design, layout, relationship with existing dwelling and immediately adjacent properties.*
- *Impact on the amenities of neighbouring residents.*
- *The existing building line and respond to the roof profile of adjoining dwellings.*
- *The character of adjacent dwellings and create a sense of harmony.*
- *The provision of dual frontage development in order to avoid blank facades and maximise surveillance of the public domain.*
- *Side/gable and rear access/maintenance space.*
- *Level of visual harmony, including external finishes and colours.*

Private Open Space - Houses

Objective DMS87 seeks to: Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) and includes the following:

- *3 bedroom houses or less to have a minimum of 60 sq m of private open space located behind the front building line of the house.*
- *Narrow strips of open space to the side of houses shall not be included in the private open space calculations.*

Objective DMS88 seeks to: *Allow a reduced standard of private open space for 1 and 2 bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/ corner sites. In no instance will the provision of less than 48 sq m of private open space be accepted per house.*

Table 12.8 provides the Car Parking Standards.

5.3. Natural Heritage Designations

The nearest Natura site is South Dublin Bay and River Tolka Estuary SPA (site Code 004024) which is in excess of 11 km, from the subject site.

5.4. EIA Screening

Having regard to the modest nature the proposed development, the serviced nature of the site, the distance between the site and sensitive receptors and the lack of any

direct hydrological connectivity from the site to any nearby sensitive receptors, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Martin Brennan Architecture Ltd has submitted a First Party Appeal on behalf of the Applicant Seamus Dolan. They have regard to the Council's reasons for refusal and their grounds of appeal include the following:

- In Reg.Ref. FW18A/097 the only reason for refusal was due to the close proximity of a public sewer manhole.
- The present proposal has been redesigned to ensure that the separation distance around the public sewer manhole required by Irish Water is provided, while retaining the design features of the original end-of -terrace dwelling and style of the original buildings in the terrace in Fortlawn Drive.
- They submit that the design has been improved in the current application.
- Compliance is achieved with internal space and external private open space standards in accordance with the Development Plan.
- This proposal provides sustainable infill development in an established residential area as encouraged by the DP and in accordance with increasing residential density.
- They cite a number of applications in the area where permission was granted showing a flexible approach to building lines. They include a map showing the location of these.
- They submit that the decision to refuse the current application is neither consistent with these established precedents, nor with pre-planning discussions and advice received for their original application.

- The present application seeks to address the previous reason for refusal by providing a satisfactory 3m separation clearance being maintained around the public sewer and manhole.
- They provide details of the location of the manhole and private sewer diversions and provide that the footprint of the proposed new dwelling has been redesigned to address this clearance issue.
- A proposed drainage plan showing the proposed re-routing of the sewer, is appended to their appeal.
- The proposed re-routing is standard practice and they provide could be adequately controlled by conditioning in a planning approval.
- They ask the Board to consider their grounds of appeal and grant permission.

6.2. Planning Authority Response

The Planning Authority considers that the issues raised in this appeal were fully assessed against the policies and objectives of the Fingal DP and as detailed in the Planner's Report. They provide that the reasons for refusal of Reg.Ref. FW19B/0134 were considered to be reasonable in this instance given the location of the site, the scale of the development and that the proposed development infringes on the existing building line.

Also, that the Applicant failed to demonstrate that measures to relocate/divert the foul sewer may be successfully implemented in accordance with Irish Water requirements. As such they have no further comments to make on the appeal submission. They request that the Board upholds their decision to refuse permission.

In the event, that this appeal is successful, provision should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contributions Scheme.

7.0 Assessment

7.1. Policy Considerations

- 7.1.1. The appeal site is located on lands that are zoned Objective 'RS' Residential Development with a stated objective *'to provide for residential development and to protect and improve residential amenity'* under the provisions of the Fingal Development Plan, 2017-2023. Under this land use zoning objective *'Residential'* development is identified as a permissible use. Section 12.4 provides the Design Criteria for Residential Development. The First Party contend that the proposal is for an appropriately scaled infill development on this corner site and that the design will respect the built pattern of residential development in the immediate area and make the most efficient use of serviced lands in the wider 'Fortlawn' area.
- 7.1.2. Regard is also had to the 'National Planning Framework Plan 2040' which seeks to increase housing supply and to encourage compact urban growth, supported by jobs, houses, services and amenities rather than continued sprawl and unplanned, uneconomic growth. Chapter 4 refers to *Making Stronger Urban Places* and includes National Policy Objective 4 which seeks to: *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*
- 7.1.3. Also, of note is Section 5.9 of the 'Sustainable Residential Development in Urban Areas Guidelines, 2009' which provides: *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.*
- 7.1.4. It is considered that the principle of an infill residential development is acceptable relative to the residential land use zoning. The issue is whether it is acceptable on this corner site, and whether the Council's reasons for refusal can be overcome. This application is being considered de novo by the Board. Regard is had to the documentation submitted, including the First Party grounds of appeal, planning history, compliance with planning policy and guidelines, design and layout, impact on the residential amenities of neighbouring properties and the character of the area and access and drainage issues in this Assessment below.

7.2. Background issues

- 7.2.1. As noted in the Planning History above there has been a previous refusal for a relatively similar type development on this corner site adjoining no.76 Fortlawn Drive, Reg.Ref. FW18A/0097 refers. The stated floor area of the proposed 2 bedroom, 2 storey dwelling was similarly 82sq.m. although there were some marginal differences in design and layout. This included the single storey kitchen element at the rear. It is noted that in that case Further Information was requested relative to drainage and design issues. The Council refused permission relative to their concerns about drainage issues.

7.3. Design and Layout and Impact on the Character and Amenities of the Area

- 7.3.1. The current proposal also seeks to provide a two storey dwelling to the north side of no. 76 Fortlawn Drive. The proposed floor area is 82sq.m for a two storey two bed roomed house with a single storey kitchen element on ground floor level. The ridge height is shown to match the existing at 7.8m. The proposed dwelling measures approx. 5.5m in width and extends 12.7m in length, which includes the single storey element at the rear. It differs slightly from the previous proposal in that the single storey kitchen element is now shown set back from rather than in line with the northern elevation. As the rear element is shown single storey it is not considered that it will adversely affect adjoining property relative to loss of light or overshadowing. There will be some potential overlooking from the proposed first-floor twin bedroom windows towards the front garden area of no.77 Fortlawn Drive, but this will be some distance away and should not be adverse.
- 7.3.2. It is noted that the internal floor area including room sizes complies with and exceeds the minimum standards as set out in Tables 12.1 and 12.3 and therefore complies with Objective DMS24 of the Fingal DP. Objective DMS87 refers to private open space. As shown on the Site Layout Plan the existing house no.76 Fortlawn Drive has a rear garden area of 60sq.m which complies with this Objective. The proposed open space for the 2 bedroom house provides marginally less than 60sq.m at the rear of the house but it is suggested that this is in compliance with Objective DMS88 which makes an allowance for such. There is a low wall around the northern and eastern roadside boundaries and it is proposed to provide a 2m high rendered and

capped wall around the rear garden area. There is a c. 2m wall along the rear boundary with the narrow pedestrian gated access to the lane at the rear between nos. 76 and 77 to the west.

- 7.3.3. This is an end of terrace of 6 houses and currently reflects the character of the area. As shown on the plans submitted it will provide for 7no. houses in this terrace. The proposed front building line matches that of the frontage of the terrace facing Fortlawn Drive. However, the proposed northern side elevation will be set further forward of the terrace of houses to the west also in Fortlawn Drive. The proposed house will therefore be set further forward of the western building line. It is considered that the proposed house will appear to jutt out in this prominent corner location proximate to the road junction, which will be to the detriment of the street scene of the established building line to the west.
- 7.3.4. This would not be in accordance with Fingal DP Policy DMS40 which refers to the need to have regard to the existing established building line. It is also considered that the design of the proposed side elevation will not be in character with the end of terrace as provided by the existing house and the two storey element will be set close to the northern boundary of the site. In this respect I would not consider it to be in compliance with Objective DMS39 of the said Plan relative to infill development retaining the physical character of the character of the area.

7.4. Access and Parking issues

- 7.4.1. The proposed development is located within the residential area within the urban speed limits of 50km/hr. It is at the junction of Fortlawn Drive. It is noted that the site layout plan shows that it is proposed to share the existing vehicular access with no.76 Fortlawn Drive. The Council's Transportation Planning Section seeks a revised layout showing that each unit has its own separate vehicular access. They recommend a number of conditions relative to access and on-site parking.
- 7.4.2. On-site parking is to be provided and the plans show one space per house. The existing house currently has space for 2 in-curtilage parking spaces and the layout would require the same. The Fingal CDP parking standards (Table 12.8 refers) require 1-2 spaces within the curtilage for a 1-2 bedroom unit/ house and 2 spaces for a 3 bedroom or more.

7.4.3. A revised layout to provide separate vehicular entrances for the existing and proposed house has not be shown. Having regard to the Site Layout Plan submitted, and in particular the proximity of the junction and corner location of the site, I would be concerned about the workability of this and that adequate on-site parking cumulatively for no. 76 and the proposed house has not been shown.

7.5. **Precedent Cases**

7.5.1. The First Party grounds of appeal cites a number of cases where a more flexible approach to building lines has been adopted by both Fingal Co. Council and the Board. They include a map showing the location of these sites, relative to the appeal site. It is of note that all of these cases are on different sites and present varying scenarios. Decisions were made in the early 2000's and prior to the policies and objectives of the current Fingal DP 2017-2023. Each case needs to be considered on its merits. To set a precedent for houses on corner sites, that so obviously breaches the building line is not a desirable trend to be pursued in the interests of the proper planning and sustainable development of the area.

7.6. **Drainage issues**

7.6.1. The Council's second reason for refusal concerns lack of information submitted relative to drainage issues, in particular the diversion of the foul sewer necessary to facilitate this application. They considered that insufficient information has been provided with regard to the achievement of a minimum set backs from existing Irish Water infrastructure or in relation to proposals to divert such infrastructure.

7.6.2. Irish Water provide that their records indicate 100mm uPVC 1978 in close proximity in nearby footpath on Fortlawn Drive. They request that the Applicant demonstrate that 3m separation distance can be achieved. They provide that a minimum clear distance of 3m must be maintained. They requested that the Applicant submit revised drawings indicating compliance.

7.6.3. The First Party grounds of appeal provides that the proposal has been redesigned in the current application to ensure that the separation clearance of 3m around the public sewer manhole required by Irish Water is provided. As shown on the submitted plans the manhole referred to is located within the property of no. 76

Fortlawn Drive. They provide that this manhole is the outfall manhole from the private collection drain which services the rear of the terrace of properties from no.71 up to and including no.76 Fortlawn Drive. They note that this outfall manhole connects to the Irish Water public water sewer spur located in the pavement, crossing the public road to connect to the main line of the public sewer. To achieve this, they are proposing that the line of the private sewer is to be diverted and reconnected to the public sewer spur in the external pavement. They include a drawing with their appeal showing the proposed re-routing of the sewer.

- 7.6.4. It is considered that this is within the remit of and subject to the agreement of Irish Water. A letter of their consent for these works has not been submitted. Therefore, as per the Council's reason for refusal it is unclear if these measures can be successfully implemented on site and without any adverse impact on drainage to the adjoining properties and in accordance with the requirements of Irish Water.
- 7.6.5. It is noted that the Council's Water Services Department has no objection subject to the incorporation of SuDS and compliance with current surface water drainage standards. They note that in view of the constrained nature of the site, the scope for SuDS is limited but recommend that as a minimum that the development install water butts. Also, that no surface water/rainwater is discharged into the foul water system under any circumstances.
- 7.6.6. However, having regard to the further information submitted I would not consider that sufficient information has been submitted relative to the diversion/ connection to the foul water sewer and Irish Water's agreement for such works. I would therefore consider that the Council's reason for refusal has not been overcome.

7.7. Screening for Appropriate Assessment

- 7.7.1. 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 refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. The proposed dwelling by reason of its location, design, scale and massing would appear visually dominant and overly prominent on this end of terrace corner site at the junction of two roads and would jutt out and be further forward of the building line of the terrace to the west in Fortlawn Drive. As such it would set an undesirable precedent and be contrary to Objectives DMS39 (infill development in character with the area) and DMS40 (relative to the building line) of the Fingal Development Plan 2017-2023 and to the proper planning and sustainable development of the area.
2. It is considered that insufficient information has been submitted to relative to surface and foul water drainage systems to ensure that the proposal would be in accordance with current standards for such works and would not be prejudicial to public health. As such it would be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

8th of May 2020