



An
Bord
Pleanála

Inspector's Report

ABP-306529-20

Development	Construction of two storey residential building accommodating 3 no. apartments
Location	Site to the rear of No's, 3-4 Castleview, Balbriggan, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0528
Applicants	Eamon Morris & Joseph Pardy
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First / Third Party
Appellants	Eamon Morris & Joseph Pardy
Observers	Barnwall Court Management Co.
Date of Site Inspection	5 th May 2020
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located to the rear / west of No's, 3-4 Castleview, off the Drogheda Road, Balbriggan. The site was formerly part of a landparcel which included 1-4 Castleview, and was latterly used for builder's storage. The built up area of Balbriggan, until recent years, ended to the south of the site.
- 1.1.2. The site is enclosed by a block wall. It is roughly rectangular in shape. Most of the site fronts onto a roadway to the Barnwall estate which is located to the north and west. The roadway is served with a footpath along the opposite side only. Part of the site fronts onto a narrow portion of the open space in that estate, which has at that point narrowed to a grass verge. The eastern boundary is to the rear of 1-4 Castleview, the southern boundary is to the side of 48 Ashfield Rise, and the western boundary is to the side of no. 50 Ashfield Rise.
- 1.1.3. There is an ESB mini-pillar, an access cover to underground services, and a light standard and mini pillar located within a grass verge along the northern boundary.
- 1.1.4. An ESB wayleave runs through the site. From the layout plan submitted, it runs through the gap between nos 48 and 50 Ashfield Rise, turning north east along the front of the site.
- 1.1.5. The site is given as 0.051ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the construction of a two storey residential building accommodating 3 no. apartments, comprising:
 - (i) Construction of a two-storey, with single storey element to rear, flat-roofed building to accommodate 1 no. one-bedroom apartment and 1 no. two-bedroom apartment at ground floor level (each served by private garden to rear) and 1 no. three-bedroom apartment at first floor level (served by 2 no. balconies located on the north-west and south-west elevations);
 - (ii) Provision of new shared vehicular & pedestrian accesses off Barnwall Court, 4 no. car parking spaces and 4 no. cycle parking spaces; and,

(iii) Landscaping, boundary treatment, SuDS water drainage and all ancillary works necessary to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for three reasons:

1 The subject site is within the RS zoning objective under the Fingal Development Plan, 2017-2023, the objective of which is to provide for the residential development and improve residential amenity. The proposed development by virtue of the overlooking which will occur within the scheme, the substandard provision of dedicated storage, the location/provision of bin storage within the site, the provision of opaque glazing serving bedroom accommodation, the extent of vehicular manoeuvres which would occur to the front of the site (in proximity to the living areas/ bedrooms of the units) would constitute overdevelopment of the site, provide an unacceptable level of amenity for residents and therefore contravene materially the 'RS' zoning objective for the area and would be contrary to the proper planning and sustainable development of the area.

2 The proposed development is contrary to the standards for apartment development set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 (Department of Environment, Community and Local Government), would provide an unacceptable level of amenity for future residents and would therefore be contrary to the proper planning and sustainable development of the area.

3 The subject development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively be harmful to the residential amenities of the area, would seriously injure the amenities and depreciate the value of property in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning report includes:

- The rear gardens of a number of adjoining residential properties interface with the subject site. There are a number of utility pillars and light standard located within a grass verge close along the northern boundary.
- Zoned RS
- Applicable objectives include.
- DMS24 – accommodation standards.
- DMS28 – separation distances between dwellings.
- DMS89 – private open space.
- Policy and objectives on public open space.
- DMS32 – prohibit gated community.
- DMS36 – refuse storage.
- DMS20 – 50% of apartments dual aspect.
- DMS22 – minimum floor to ceiling height 2.7m at ground floor.
- DMS89 – private balconies etc to comply with the minimum standards in table 12.6.
- DMS90 – screened and sheltered private OS.
- DMS91 - communal OS to exceed the minimum standards in table 12.6.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines – standards min floor areas etc.
- Sustainable Residential Development in Urban Areas and accompanying document Urban Design Manual – Best Practice Guide – guidance and standards in relation to siting layout and design.
- Quality Housing for Sustainable Communities – guidance.
- The proposed block has a height of 5.9m a flat roof and is positioned on the eastern side of the site, in response to the wayleave which traverses the site obliquely. The proposed apartment block is situated c1.7m off the eastern

boundary of the site and at its closest point c1m from the southern site boundary.

No details have been provided of finishes or in relation to the internal boundary. A screened balcony is proposed on the side/western elevation serving the apartment at first floor level. A balcony serving this apartment is also proposed on the front/southern elevation. A number of the windows at first floor level, serving bedroom 2 and bedroom 3, are indicated as comprising opaque glazing.

- Principle – acceptable.
- Residential amenity –
 - Storage – objective DMS24 - relies heavily on storage within bedrooms – wardrobes – (Quality Housing for Sustainable Communities) general storage space should be provided on each floor preferably accessible from circulation areas.
 - Objective DMS24 – minimum floor to ceiling height 2.7m at ground floor, 2.6m proposed.
 - Objective DMS28 – minimum 22m separation distance, between rear opposing first floor windows unless alternative provision has been designed to ensure privacy. Design / layout and relationship with adjacent property is not acceptable.
 - Re minimum storage provision per Sustainable Urban Housing: Design Standards for New Apartments Guidelines - 3.6sqm (apt 2) and 2.4sqm (apt 3), unacceptable.
 - SPPR5 Apartment Guidelines – 2.7m floor to ceiling height at ground level, derogation for urban infill, 2.6m proposed, unacceptable.
 - Apartments Guidelines – communal amenity space – 5sqm 1 bed, 6 sq m 2 bed (3 person), and 9 sqm 3 bed, which may be relaxed. Not provided.
 - Opaque glazing – the only window serving bedroom no 3 in apt 3 will comprise opaque glazing; afforded a poor level of amenity.

- Bin storage to apt 3 is located directly adjacent to the living room of apt 1. Bin storage to s/w of the site is remote from the apt unit it serves and requires crossing a lawn.
- Overlooking – living room window of apt 3 at first floor directly overlooks the open space of apt 2.
- Vehicle manoeuvres which would occur to the front of the site, in proximity to living areas/bedrooms.
- Would result in an unacceptable quality of residential development and overdevelopment of the site.
- Residential amenity of the area –
 - Window on side/eastern elevation – bedroom 2 in apt 3, is located c1.7m off eastern boundary – direct overlooking. In F17A/0201 for a window indicated as serving a bedroom appropriate design measures were incorporated – a recess into which the bedroom window faced.
 - First floor balcony is proposed on the side/western elevation c5.5m off the southern boundary; while provided with screening to mitigate potential overlooking, it would impact on residential amenity of adjoining properties.
- Design and Layout
 - Design and scale of the block generally acceptable. Contribution in lieu of public open space, condition. Creation of gated community unacceptable, condition.
- Transportation
 - Further information recommended.
- Water and Drainage
 - Further information recommended.
- Impact on Natura sites and EIA screening.
 - Not likely to have significant effect. EIA not required.
- Part V

- No compliance details submitted. Condition required.
- Third party submissions
 - Re ownership of boundary wall – S34 (13).
- Recommending refusal – in the form that issued.

3.2.3. Other Technical Reports

3.2.4. Transportation Planning Section

- Within 50km/hr speed limit.
- There are four in-curtilage parking spaces as per the requirements of the Development Plan Standards. It is not clear from the information submitted if there is adequate space for vehicles to access and egress the parking area comfortably and without the need for reverse manoeuvres onto the public road. Cars exiting the parking area to the front should be able to approach the public road at a 90 degree angle. There is also poor inter-visibility of vehicles and pedestrians utilising the shared access and the front parking area as a result of the existing high front boundary wall. This should be addressed. A swept path analysis of the vehicle movements in and out of the parking area should be provided given the restricted nature of the proposed front parking area.
- There is no sightline drawing provided. Sightlines should be provided to the nearside edge of the road. Speeds are likely to be closer to 30km/hr than 50km/hr given the proximity of the junction of Barnwell Court and Drogheda Street to the north east and the sharp bend to the south west. Minimum sightlines of 23m in each direction should be provided at the proposed entrance. This may require relocation of the proposed entrance further south-west along the front boundary.
- Additional information required to fully assess the proposed development:
 - 1) A revised sightline drawing indicating sightlines of 23m or more should be provided.
 - 2) There is poor inter-visibility of vehicles and pedestrians utilising the shared access. The high front boundary wall should be reduced to 0.9m to allow adequate visibility of vehicles and pedestrians.

3) A revised drawing indicating car spaces and site layout. The applicant is advised to contact prior to response.

3.2.5. Water Services Department

- The applicant is proposing rainwater butts, something more substantial is required. An attenuation tank only as a last resort. Applicant to consider other SuDS measures and submit a surface water drainage proposal including design calculations.
- No surface water to discharge to foul sewer.
- Surface water drainage to be in compliance with Greater Dublin Code of Practice for Drainage Works, Version 6.0, FCC April 2006.

3.3. Prescribed Bodies

IW – conditions.

3.4. Third Party Observations

3.4.1. Third party observations on the file have been read and noted.

4.0 Planning History

F17A/0201 – permission granted for two storey 4 bedroom, contemporary dwelling.

To east

F11A/0442 - permission granted for four two storey dwellings.

Pre application consultation took place.

5.0 Policy Context

5.1. Development Plan

Fingal County Council

Fingal Development Plan, 2017-2023

Zoned RS

Applicable objectives include.

DMS24 – accommodation standards.

DMS28 – separation distances between dwellings.

DMS89 – private open space.

Policy and objectives on public open space.

DMS32 – prohibit gated community.

DMS36 – refuse storage.

DMS20 – 50% of apartments dual aspect.

DMS22 – minimum floor to ceiling height 2.7m at ground floor.

DMS89 – private balconies etc to comply with the minimum standards in table 12.6.

DMS90 – screened and sheltered private OS.

DMS91 - communal OS to exceed the minimum standards in table 12.6.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura sites are River Nanny and Shore SPA (site code 004158) c4.1km to the north and Skerries Islands SPA (site code 004122) c 7.3km to the south-east.

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Hughes Planning & Development Consultants have submitted this appeal on behalf of the first party. The grounds include:

- The proposal has had due regard for the standards in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, provides a high standard of residential amenity for future residents while having no undue impact on neighbouring amenities.
- The density ensures increased efficiency of serviced land in accordance with national policy and cannot be considered overdevelopment.
- The proposal is appropriately scaled and designed and will set an appropriate precedent for future infill.
- Internal accommodation –
 - Storage – minimum requirement and provision is given in tabular form in Figure 9.0. The proportion provide in directly accessible spaces is set out in Figure 11. Figure 10 shows spaces outlined on plan.
 - Bin storage – the bin storage is located in excess of 4m from the bedroom, not living room, of apt 1; and separated therefrom by a terrace. Re distance between apt 3 and the bin storage serving that apt, the storage area is closest to the public area where bins will be placed on collection day. The distance between the bin storage area and the apt is not considered an undue distance to traverse.
 - Minor discrepancies regarding floor to ceiling height (less than the 2.7m required) and the opaque glazing to bedroom no. 3 in apt 3 can be addressed by condition.
 - Vehicle manoeuvring – a distance of c8.25m is achieved between the entrance and the window to apt 1. Re the living room of apt 2, the movements will be limited due to the limited extent of parking.

- Overlooking – they consider that a condition, rather than refusal, should have issued re the window to bedroom 2 in apt 2. Re the balcony to apt 3 they consider the extent of screening appropriate given the manner it aligns with No 50 Ashfield Rise, and noting that no observation was raised from this neighbouring unit. Re the living room window to apt 3 they consider no undue impact arises, but they would welcome a condition requiring omission or redesign.
- The proposal represents efficient use of serviced land in accordance with national policy objectives 3a, 3b and 35 of Project Ireland 2040 cited; and the NDP 2018-2027. The previously permitted development would represent 19.5 units per hectare. The Urban Development and Building Heights Guidelines is cited. The proposal would represent an increase from 19.5 units per hectare to 59 units per hectare reflecting the type of compact sustainable development which is sought throughout National Policy.
- Appropriate precedent – images of development in the area are provided, the proposal represents a high standard of architecture and would set an appropriate precedent for future infill.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority has responded to the grounds of appeal stating that it has no further comment to make and that in the event that the appeal is successful, a S48 contribution, and provision for a bond should be attached as conditions.

6.3. Observations

- 6.3.1. An observation has been received from Barnwall Court Management Co. Ltd, which includes:
- The planning report by Hughes Planning & Development Consultants (p13) in Sec 10.0 and subsection 8 states that the drawings show how adequate sightlines are being achieved, it is not shown how sightlines at a height of between 1.05m and 1.15m at a set back of 2.5m are being achieved.

- Hughes Planning & Development Consultants (p12) report that the application creates a scheme which is fully integrated with neighbouring houses and residential development. It is surrounded by a 6ft (min) high wall and a 6ft pedestrian gate; and would create a gated community, contrary to DMS32. It is not in keeping with the open plan neighbouring developments.
- Ceiling height is lower than the standard required.
- Where will 9 bins be placed on collection day. This would have serious impact on the traffic to Barnwall Court.
- Construction traffic is of major concern.
- The boundary wall belongs to Barnwall Court no consent for its demolition has been provided.
- No correspondence has been received by Barnwall Court Management Co. Ltd regarding contributions, and no documentation to indicate that a management company will be set up.
- The block is totally out of character with the surrounding developments.
- The planning application shows two different car parking layouts and different layouts for the private open space for the ground floor apartment. Clarification is required.

7.0 **Assessment**

7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, design standards, residential amenity, parking, traffic safety, surface water, wayleave, overdevelopment and other issues and the following assessment is dealt with under these headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. Design Standards

- 7.3.1. I note that the drawings, including the building design drawings, are attributed to Hughes Planning & Development Consultants.
- 7.3.2. The planning authority has listed numerous concerns regarding the detailed design of the building. The first party has responded that some could have been addressed by condition, such as the 2.6m floor to ceiling height at ground floor which should be 2.7m high; and the need for opaque glazing to the east facing bedroom window at first floor. In my opinion the latter shortcoming would be less easy to address by condition, and the use of opaque glazing is a measure which cannot be justified in this situation.
- 7.3.3. The first party contests the concern regarding storage areas and points out the available provision, and the proportion of the provision which is accessible from circulation areas as well as the proportion provided as wardrobe space. In their calculations they include an under-stairs area for apt 3 of 2.8 sq m some of which is of very limited utility and provides limited space, being located below a stairs area which has a height at its lowest below the third step of the stairs. As they acknowledge, even with this area, the total floor area available for storage for apt 3 is below the recommended allocation. In my opinion the storage provision is below the standard required.
- 7.3.4. A design feature which is sub-optimal is the front door opening directly, without an intervening lobby, into the livingroom of apt 2.
- 7.3.5. The overlooking of private amenity space within the development from overhead windows has been addressed in the planning report.
- 7.3.6. The provision of bin storage in proximity to different apartment, is responded to by the first party who points out that the distance in excess of 4m from the bedroom, not living room, of apt 1; and separated therefrom by a terrace. In my opinion the intervening terrace, which is akin to a living area, is not a suitable buffer for a bin store and proximity to the terrace is itself a cause for concern.
- 7.3.7. It is worth noting that the largest apartment, apt 3, is provided with an outdoor amenity space of 7.1 sq m as a front balcony facing the very proximate road,

together with 6.5 sq m to the side. The necessity of such poor provision in a suburban area is questionable.

- 7.3.8. In my opinion the proposed development is substandard and this is a reason for refusal.

7.4. Residential Amenity

- 7.4.1. The impact on the residential amenity of adjoining residential properties is largely of concern due to the potential for overlooking. The first party response is that this could be addressed by condition, or is not of concern since the party concerned did not submit an observation.
- 7.4.2. In my opinion overlooking by the window in bedroom 2 of apt 3 does not lend itself to remedy by condition, and the kitchen window of apt 3 is c 5m from the rear garden of the adjoining residential property, which it overlooks.
- 7.4.3. In my opinion the proposed development impacts on the residential amenity of adjoining properties and this is a reason for refusal.

7.5. Parking

- 7.5.1. The report of the Transportation Planning Section requesting further information on three points, requiring: an autotrack drawing demonstrating car movements from/into the proposed car parking spaces; a revised layout demonstrating the high front boundary wall reduced to 0.9m to allow adequate visibility of vehicles and pedestrians; and a revised sightline drawing indicating sightlines of 23m or more should be provided. This was not acted on due to the other shortcomings of the proposal which the planning authority considered warranted refusal. The report noted that there are four in-curtilage parking spaces as per the requirements of the Development Plan Standards; but it is not clear from the information submitted if there is adequate space for vehicles to access and egress the parking area comfortably and without the need for reverse manoeuvres onto the public road. It seems to me that there is not capacity for 4 parking spaces and that at most 3 spaces could, with difficulty, be accommodated. Even this number would require an excessive amount of manoeuvring, with which the planning report raised concern. Excessive manoeuvring is of particular concern due to the number of individual

access points to the building and rear amenity spaces located along the front of the building. Pedestrians moving around while vehicle are reversing would give rise to potentially serious conflict within the site.

7.5.2. The Transportation Planning Section considered that the relocation of the proposed entrance further south-west along the front boundary might be required. The relocation would provide the entrance where the building set-back is at its maximum and would facilitate vehicle movements within the site.

7.5.3. It is considered that the site layout gives rise to traffic hazard.

7.6. Traffic Safety

7.6.1. The proposed development includes a very slight set back for a pair of sliding gates and no setback for the separate pedestrian gate.

7.6.2. Both entrances emerge through a high wall onto the road to Barnwell Court along which there is no footpath on this side.

7.6.3. The Transportation Planning Section considered that further information was required in relation to sightlines and inter-visibility of 0.9m to allow vehicles and pedestrians utilising the shared access and that revisions including a reduction in the high front boundary wall were required.

7.6.4. Observers to the planning authority expressed concerns about traffic safety, that this road is already unfit for purpose as two vehicles cannot pass comfortably side by side that the development is beside the very narrow bend.

7.6.5. In my opinion the proposed development would create a traffic hazard because of the poor sightlines, with pedestrians and vehicles emerging directly onto a road. This is a reason for refusal. The conflicting movements between pedestrians and vehicles which would occur within the site due to the poor site layout have been referred to earlier.

7.7. Surface Water

7.7.1. The proposed method of surface water disposal, to rainwater butts was unacceptable to the Water Services Department. Their recommendation that a request for further information be issued was not acted on due to the other

shortcomings of the proposal which the planning authority considered warranted refusal.

- 7.7.2. It is considered that the matter of surface water disposal, in compliance with Greater Dublin Code of Practice for Drainage Works, Version 6.0, FCC April 2006, requires resolution before any permission could be contemplated.

7.8. **Wayleave**

- 7.8.1. An ESB wayleave runs through the site. Its location is indicated on drawings submitted with the application: P-000 site location map scale 1:1000, P001, site plan scale 1:500, and P-002, existing Plan 1:100, P-003 ground floor plans, P004 proposed first floor plan. History documents provided by the planning authority, show that the wayleave, as shown on maps and plans provided with the previous application F17A/0201 in 2018, was indicated to be in a location which is significantly different to that currently shown. It is also worth noting that the record of pre-planning on the subject application, recommended that any application should include a letter of consent from the ESB in relation to the wayleave. No such letter was submitted.
- 7.8.2. The ESB wayleave appears to have informed the layout of the proposed development and as indicated, it runs close to the side, western edge of the building and the front, northern edge. It seems likely that the layout has taken account of the wayleave, however it is a reasonable requirement, particularly in view of the differences in the documents provided with these applications, that a letter from the ESB, referencing a map/plan showing the wayleave, be supplied.

7.9. **Overdevelopment**

- 7.9.1. Reason no. 1 states that the proposal would constitute overdevelopment of the site. The grounds of appeal responds to this by showing that the proposal would achieve a more efficient use of urban land in accordance with various national policy documents.
- 7.9.2. As stated under the previous heading a wayleave runs through the site and this impacts on a considerable proportion of the site; more than half of the total area is impacted. It is considered that the design response, which seeks to achieve the provision of three units in the remainder of the site has not successfully resolved the

issues regarding providing development of the requisite standard, and provided with the necessary amenities, while protecting the residential amenities of the surrounding area.

7.10. Other

- 7.10.1. The observation from Barnwall Court Management Co. Ltd, which includes concerns regarding where the 9 bins will be placed on collection day; and that this would have serious impact on the traffic to Barnwall Court.
- 7.10.2. As previously stated there is no footpath along this site of the road and the access would be close to a bend in the road. However there is a grass verge / open space area to the west of the access. It is not clear from the documents submitted whether or not the development would be entitled to use that area. This requires resolution before any permission could be contemplated.
- 7.10.3. The observation from Barnwall Court Management Co. Ltd refers to the boundary wall belonging to Barnwall Court and that no consent for its demolition has been provided. It also states that no correspondence has been received by Barnwall Court Management Co. Ltd regarding contributions, and no documentation to indicate that a management company will be set up. These matters are outside the scope of the planning process and as stated in the planner's report, the provisions of Section 34 (13) of the Planning and Development Act would apply.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that planning permission should be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1 The subject site is within the RS zoning objective under the Fingal Development Plan, 2017-2023, the objective of which is to provide for the residential development and improve residential amenity. The proposed development by virtue of the overlooking which would occur within the scheme, the substandard provision of dedicated storage, the location/provision of bin storage within the site, the

provision of opaque glazing serving bedroom accommodation, the extent of vehicular manoeuvres which would occur to the front of the site would constitute overdevelopment of the site, provide an unacceptable level of amenity for residents and therefore contravene the 'RS' zoning objective for the area and would be contrary to the proper planning and sustainable development of the area.

2 The proposed development is contrary to the standards for apartment development set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 (Department of Environment, Community and Local Government), would provide an unacceptable level of amenity for future residents and would therefore be contrary to the proper planning and sustainable development of the area.

3 It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the traffic turning movements the development would generate on a substandard road at a point where sightlines are severely restricted, and because of the conflicting movements which would occur within the site due to the confined nature of the site and the poor site layout.

Planning Inspector

13th May 2020

Appendices

Appendix 1 Photographs

Appendix 2 Fingal Development Plan 2017-2023.