



An
Bord
Pleanála

Inspector's Report ABP 306740-20

Development

2 no. dwellings, new vehicular entrance gate to Golf Lane to serve existing dwelling 'Carreen' and new vehicular access to House B. Works also to provide new surface water and foul drainage to the existing house 'Carreen' and proposed dwellings.

Location

Carreen, Golf Lane, Westminster Road, Foxrock, Dublin 18.

Planning Authority

Dun Laoghaire-Rathdown

Planning Authority Reg. Ref.

D19A/0639

Applicants

John & Helen Maree

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellants

John & Helen Maree

Observers

(1) Niall & Maeve Pelly
(2) Hugh & Maeve Markey

- (3) Marie Reynolds
- (4) Barry Thornton & Clodhna Burke
- (5) Adrian & Niamh Walsh

Date of Site Inspection

18/5/2020

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located at Golf Lane, Westminster Road, Foxrock, Dublin 18. The surrounding area is characterised by relatively large detached housing on long plots. Foxrock Golf Course which is a nine hole course is situated to the south of the subject site.
- 1.2. The site has an area of 0.29 ha. It comprises the plot of 'Careen' aside from the north-western corner. 'Careen' is a large detached dormer dwelling. It is situated on the northern side of Golf Lane. The plot extends back for circa 70m from the lane. The site is bounded by high mature hedging and it contains mature trees, shrubs and landscaping to the front and rear of the dwelling. It is served by a vehicular entrance and driveway which runs along the eastern boundary. To the north-western corner of the site there are a couple of sheds/outbuildings. The northern site boundary adjoins properties within the Springfield Park Housing estate. To the east of the site there are two detached dwellings.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 2 no. dwellings within the grounds of 'Carreen'
- 2.2. House C is located to the north-east portion of the site and is to be accessed via the existing driveway and vehicular entrance.
- 2.3. House B is located to the south of the existing house with a new vehicular access and pedestrian entrance to Golf Lane. A new vehicular entrance gate and pedestrian entrance to Golf Lane.
- 2.4. Works also provide for new surface water and foul drainage to the existing house 'Careen'.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason;

1. The proposed development would be premature by reason of an existing deficiency in the provision of sewerage facilities, pending the upgrade of the existing Irish Water foul drainage network for which there is no defined timeframe for the commencement of necessary improvement works. The connection of the proposed development to the current foul drainage system would, therefore, 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. Planning Reports

Further Information was sought in relation to the following;

1. Submit section drawings through House C and the rear garden of No. 34 Springfield Park on either side of the rear extension of no. 34 Springfield Park accurately depicting the extension. Provide a shadow analysis illustrating the overshadowing impacts of House C on the rear of no. 34 Springfield Park.
2. The proposed development includes works on Golf Lane on lands not in the control of the applicant. Submit revised site location map and site plan which includes these works within the redline boundary of the site and a letter of consent from the relevant landowner.
3. Provide detailed drawing showing proposed vehicular entrance to house B having a maximum width of 3.5m. The proposed front boundary treatment to be a minimum of 1.1m in height for a minimum distance of 1.0m either side of the proposed vehicular entrance or the vehicular entrance to be recessed a minimum of 1.0m with 45 degree splayed walls. The proposed automatic gates of the vehicular entrance to be omitted or manually operated.
4. The discharge of surface water run-off to the foul sewer is not acceptable. Submit revised plans indicating all surface water generated by the proposed development (roof and pavements) infiltrated or reused within the curtilage of the proposed dwelling.
5. There are significant wastewater network constraints in foul sewer to which it is proposed to connect. The applicant is requested to engage with Irish Water

by way of a pre-connection enquiry to determine the feasibility of connecting to the Irish Water network and to submit the outcome this enquiry to the planning authority by way of further information.

6. Submit a landscape plan prepared by a qualified landscape architect.

3.2.2. Other Technical Reports

Drainage Planning – Further information requested

Transportation Planning – Further information requested

Parks and Landscape Services – Further information requested

3.3. Prescribed Bodies

3.3.1. Irish Water Report dated 11/1/20 – There are significant constraints in the foul sewer to which the proposed development would connect. A Drainage Area Plan (DAP) with hydraulic modelling for the area is being prepared. It will determine the system deficiencies and outline the upgrades needed in the existing Irish Water Infrastructure. The Dap hydraulic model for the existing network and current load will be available in Q4 2019 (subject to change). The connection is feasible subject to completion of upgrades identified. Irish Water currently does not have any plans to commence upgrade works to its network in this area.

3.4. Third Party Observations

3.4.1. The Planning Authority received 7 no. submissions/observations in relation to the proposed development. The main issues raised are similar to those set out in the observations on the appeal.

4.0 Planning History

PA Reg. Ref. D19A/0638 & ABP 306733-20 – Permission was refused by the planning authority for (House A) a two-storey dwelling with habitable roof space to the south-west of 'Careen' including a new vehicular entrance and pedestrian gates from Golf Lane. Site development including surface water and foul drainage works. Permission was refused on the basis that the proposed development would be premature by reason of existing deficiency in the provision of sewerage facilities,

pending the upgrade of the existing Irish Water foul drainage network. The decision is the subject of a current appeal.

5.0 Policy Context

5.1. Development Plan

The site is governed by the provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022.

The site is identified as being Zoned Objective A 'to protect and/or improve residential amenity'.

Chapter 8 – Principles of Development

Section 8.2.3 refers to Residential Development

5.2. Natural Heritage Designations

- None

5.3. EIA Screening

- 5.3.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. 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

A first party appeal has been lodged by Brazil Associates on behalf of the applicants John & Helen Maree. The main issues raised are as follows;

- It is submitted that the proposed development of 2 no. detached dwellings with 3 & 4 bedrooms would result in a small waste water loading at 3

litres/minute for each house. This is based on the calculation of GK Consulting Engineers.

- It is considered that the additional waste water loading is small and that it is unlikely to cause any overloading of the foul drainage network. Therefore, it is submitted that the proposal would not be prejudicial to public health and not contrary to the proper planning and sustainable development of the area.
- The appeal refers to the Irish Water Connection Reference No: CDS1900 7656 Pre Connection enquiry. The response states – ‘based upon the details you have provided with your connection enquiry and on the capacity currently available as assessed by Irish Water, we wish to advise you that subject to a valid connection agreement being put in place your proposed connection to the Irish Water Network can be facilitated’. It is stated that this letter is contradicted by the Further Information report from Irish Water to the Planning Authority.
- The report from Irish Water stated that there are significant waste water network constraints in the foul sewer.
- Reference is made to two examples of similar scale developments which were granted permission in the vicinity.
- Under Reg. Ref. D19A/0652 permission was granted on the 24th of January 2020 for the demolition of a dwelling and the construction of 2 no. new dwellings at “Dunroamin”, Gordon Avenue, Foxrock, Dublin 18.
- Under Reg. Ref. D18A/0111 permission was granted for the construction of a dwelling to the rear of Eden, Gordon Avenue, Foxrock, Dublin 18. A condition of the permission specified that the applicants enter into a connection agreement with Irish Water. It is suggested that a similar criteria should apply to the current application and that permission could be granted with a similarly worded condition.
- It is considered that the further information submitted in support of the development meets all the development standards set out by the Planning Authority and that the only outstanding issue is the proposed waste water connection.

- It is submitted that the issues referred to in the reason for refusal should be dealt with during the connection agreement negotiations with Irish Water.
- In the letter dated November 15th 2019, Irish Water stated that there is capacity in the system for the proposed development. The applicants fully accept that there are matters concerning upgrading which need to be dealt with.
- The occupants of the proposed two houses are the applicants and their son. It is considered that the requirement to wait an indefinite time span until such time as Irish Water resolve the issues would be excessive and unfair.
- Having regard to all the favourable reports from the various departments and the small scale of the proposed development it is requested that the Board grant permission subject to the attachment of a condition to enter into a connection agreement with Irish Water.

6.2. Planning Authority Response

A response to the first party appeal was provided from the Drainage Planning Section. The issues raised are as follows;

- It is argued in the appeal that given the additional waste water loading is small it is unlikely to cause overloading. In response to this the report from Irish Water dated 28th of November 2019 is noted which stated 'There are significant wastewater network constraints in the foul sewer in which this development proposes to connect. Therefore, it is considered that any additional loading from a single unit, cumulative single units or multiple units will increase the loading on an already deficient system.
- Item 2 of the appeal refers to two previous applications in the area where planning permission was granted. Reg. Ref. D19A/0652 where the Irish Water Report to the Planning Authority did not reference the significant wastewater constraints and where the Planning Authority granted permission. The other application which was referenced Reg. Ref. D18A/0111 predates the recent Irish Water reports which highlights the significant constraints in the wastewater network.

- The recent decision of the Board under ABP 304644-19 (Reg. Ref. D19A/0190) is highlighted where permission was refused for a scheme of twenty dwellings in the area. The proposed development would be premature by reason of an existing deficiency in the provision of sewerage facilities, pending the upgrade of the existing Irish Water foul drainage network for which there is no defined timeframe for the commencement of the necessary improvement works. The connection of the proposed development to the current foul drainage system would, therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
- The report of the Inspector advised “In the absence of certainty regarding the upgrade of the foul drainage network in the area, the proposed development is premature. To permit the development to progress would be prejudicial to public health. The use of a storage tank and pumping in the off peak is not a suitable method of foul drainage for a residential development. Permission, therefore, should be refused on this basis.”
- It is noted that the wording in the Irish Water report for the D18A/0190 application is the same as the wording used in the current application which states ‘There are significant wastewater network constraints in the foul sewer in which this development proposes to connect. Currently Drainage Area Plan (DAP) with hydraulic modelling and outline needed upgrades in existing network and current load will be available in Q4 2019 (subject to change). The connection is feasible subject to completion of upgrades identified. Irish Water currently does not have any plans to commence upgrade works to its network in this area.
- Item 3 of the appeal stated that it is the applicant’s opinion that the “matters for refusal should be dealt with during the connection, agreement negotiations with Irish Water”.
- The report of Irish Water states that Irish Water currently does not have any plans to commencement upgrade works to its network in this area then the “matters for refusal should be dealt with during the connection agreement

negotiations with Irish Water” cannot be relied upon as a basis for granting permission.

6.3. Observations

Observations to the appeal have been submitted from the following (1) Niall & Maeve Pelly (2) Hugh & Maeve Mareky (3) Marie Reynolds (4) Barry Thornton & Cliodhna Burke (5) Adrian & Niam Walsh. The issues raised are as follows;

- The proposal should be considered having regard to the concurrent application PA Reg. Ref. D19A/0638 & ABP 306733-20.
- Concern is expressed in relation to the proposed connection to the water supply.
- The constraints in the foul drainage network are raised and the feasibility of connecting the proposed dwellings in the absence of existing capacity.
- The matters of surface water drainage and flooding are raised.
- The development would generate additional traffic movements on Golf Lane.
- The proposed development would cause overlooking and overshadowing of neighbouring dwellings.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and observations submitted. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following heading:

- Servicing
- Design and impact upon residential amenity
- Appropriate Assessment

7.1. Servicing

Foul Drainage

- 7.1.1. The Planning Authority refused permission for the proposed development on the basis that development would be premature by reason of an existing deficiency in the provision of sewerage facilities, pending the upgrade of the existing Irish Water foul drainage network for which there is no defined timeframe for the commencement of necessary improvement works. The connection of the proposed development to the current foul drainage system would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
- 7.1.2. It is argued in the appeal that the additional waste water loading is small and that it is unlikely to cause any overloading of the foul drainage network. Therefore, it is submitted that the proposal would not be prejudicial to public health and not contrary to the proper planning and sustainable development of the area. In relation to the contention that the proposal would represent a small increase in loading onto the foul network, given the existing constraints any additional cumulative loading from one or more properties would increase the loading onto the existing deficient system.
- 7.1.3. Two examples where permission was granted for dwellings in the area are cited. Reg. Ref. D18A/0111 where permission was granted for the construction of a dwelling to the rear of Eden, Gordon Avenue, Foxrock and Reg. Ref. D19A/0652 where permission was granted for the demolition of a dwelling and the construction of 2 no. new dwellings at "Dunroamin", Gordon Avenue, Foxrock.
- 7.1.4. In the response to the appeal from the Planning Authority which was prepared by the Drainage Planning Section, they stated that in relation to Reg. Ref. D19A/0652 the Irish Water Report to the Planning Authority did not reference the significant wastewater constraints and the Planning Authority granted permission. The other cited application Reg. Ref. D18A/0111 is noted as predating the recent Irish Water reports which highlights the significant constraints in the wastewater network.
- 7.1.5. The first party request that the Board grant permission for the proposed scheme and attach a condition requiring the applicant to enter into a connection agreement with Irish Water in respect of the proposed foul drainage connection.
- 7.1.6. The report from Irish Water on file dated the 11th of January 2020 stated that there are significant network constraints in the foul drainage network, a Drainage Area Plan (DAP) with hydraulic modelling for the area is in progress which will determine system deficiencies and outline needed upgrades in the existing Irish Water

infrastructure. It was stated that the DAP hydraulic model for the existing network and current load would be available in Q4 2019 (subject to change). The report acknowledges that the proposed connection is feasible subject to completion of upgrades identified, however that Irish Water do not have any plans to commence upgrade works to its network in this area.

7.1.7. The appeal submissions from the Planning Authority notes this matter has arisen in relation to a recent application and appeal at Reg. Ref. D19A/0190 & ABP.304644 at the junction of Golf Lane and Torquay Road, Foxrock. Permission was refused by the Board for the development of 20 no. dwellings on the basis that the development would be premature by reason of existing deficiency in the provision of sewerage facilities, pending the upgrade of the existing Irish Water foul drainage network for which there is no defined timeframe for the commencement of the necessary improvement works. Therefore, I note that the Board has taken the same stance in determining that development in the area would be premature by reason of existing deficiency in the foul drainage network.

7.1.8. The first party request that the reason for refusal should be dealt with during the connection agreement negotiations with Irish Water. I do not consider this is a suitable approach because while a connection to the network is possible it does not overcome the significant deficiency in the existing foul drainage network. Furthermore, given that there is no certainty regarding the upgrade of the foul drainage network in the area, the subject proposal would be premature and to permit the development would be prejudicial to public health.

Surface Water Drainage

7.1.9. The surface water layout is indicated on Drawing no. GK19195-C100 which was submitted with the further information response. A separate surface water system is proposed within the scheme. The surface water generated within the development will be discharged to soakaways located to the south of House B and west of House C. The report of the Drainage Planning Section dated 10th of January 2020 which assessed the further information, stated that they were not satisfied with the proposed infiltration trench from the soakaway to House C due to it being located within 3m of the property boundary. The proposed infiltration trench to the proposed soakaway within the site of House B is located within the laneway which is outside

site. The report of the Drainage Planning Section stated that these matter could be addressed by clarification.

- 7.1.10. The issue of flooding was raised in a number of the observations. I note this issue was not of concern to the Planning Authority in their assessment. Subject to the proposed surface water drainage generated within the scheme being infiltrated or reused on site and the proposed surface drainage proposals being revised in accordance with the specifications of the Drainage Planning Section, I consider that the surface water generated on site can be managed on site and would have no undue impact upon neighbouring properties and also the laneway.

Water supply

- 7.1.11. In response to the further information request the proposals for water supply connection were revised from a new connection via Golf Lane to new connections an existing watermain serving 'Carreen' via Springfield Park to the north. This is indicated on Drawing no. GK19195-C100. The revised proposal will ensure works in relation to the watermain connection will not require to be carried out on Golf Lane which is outside the control of the applications. I consider this satisfactorily addresses the matter.

7.2. Design and impact upon residential amenity

- 7.2.1. The observations to the appeal have raised concern regarding potential overlooking and overshadowing from the proposed dwellings. In relation to the matter of overlooking, I have examined the proposed plans and elevations and having regard to the separation distances provided between the dwellings and the neighbouring properties, the existing boundary treatment which it is proposed to retain and the location of windows including the absence of first floor windows to the rear of House C and the limited fenestration to the first floor side elevation, I consider that no significant overlooking will occur.
- 7.2.2. Having examined the shadow diagrams submitted in response to the further information I am satisfied that any potential overshadowing of no. 34 Springfield Park would be very limited.
- 7.2.3. A number of observations expressed concern at the level of additional traffic which would be generated by the proposed development. Having regard to the limited

scale of the proposed development comprising a further two dwellings, I would consider that the level of traffic likely to be generated by the proposed development would be modest.

7.3. Appropriate Assessment

- 7.3.1. The site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in a service suburban area and the separation distance to the nearest European site, 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 a refusal of permission.

9.0 Reasons and Considerations

1. The proposed development would be premature by reason of an exiting deficiency in the provision of sewerage facilities, pending the upgrade of the existing Irish Water foul drainage network for which there is no defined timeframe for the commencement of the necessary improvement works. The connection of the proposed development to the current foul drainage system would, therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

21st of May 2020