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<b>Development</b>	3 no. 2-storey dwellings & demolition of part of existing dwelling
<b>Location</b>	No. 52 Copeland Grove, Dublin 3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2273/20
<b>Applicant(s)</b>	Pat and Susan McNamara
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Pat and Susan McNamara
<b>Observer(s)</b>	(1) Michael & Catherine Byrne; (2) Seán Haughey TD; (3) Mary Kilduff; (4) Brenda & Paul Dolan; (5) Aodhán Ó Ríordáin TD; (6) David & Mary Ryan; (7) Emma Murphy; (8) Chris van der Lee; (9) Mary Tubridy; (10) Judith Duggan, Angela Fox, Maeve Maher, Pauline Cahill & Deirdre Sheil; (11) Nora & Jerry McMahon;

(12) Imelda & Tony Walsh; (13) Tom O'Connor; (14) Niamh & Damian Bracken; (15) Christina Hansberry; (16) Bridget & Derek McGrath; (17) Thomas Waller, Patrick Owens, Tara O'Callaghan & Eric Morrisey; (18) Rita Fitzgerald, Priscilla Shaw, John Gillen, Noel Scott & Alan Redmond; (19) Brendan & Catherine McKenna, Brendan & Myra Jordan, Lisa & Roger Bejenaru, Lynsey Farrell, Tina McDonagh, Jessie Watson, Sheila O'Sullivan, Peter & Diane Hanbury and Andrew Tucker; (20) Pauline O'Dwyer, Mary Rogan, John O'Regan, Peter Johnson and Eamon Magee; (21) Denise & James Lidiirth; (22) Paschal Preston & Trish Morgan; (23) Cllr Deirdre Heney; (24) Judith Lanigan & Michael Giblin; (25) Cllr. Catherine Stocker; (26) Stephen & Dolores Kavanagh; (27) Cllr. Naoise ÓMuirí.

**Date of Site Inspection**

17<sup>th</sup> August 2020

**Inspector**

Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1,629.7 m<sup>2</sup> and is located at No. 52 Copeland Grove, Dublin 3. Copeland Grove is an estate of 2-storey, semi-detached dwellings which is accessed via the Howth Road and extends in a north-westerly direction towards the Malahide Road.
- 1.2. The access road within Copeland Grove is relatively narrow in width, with a significant amount of on-street, car-parking. The road terminates in a cul-de-sac, where a pedestrian laneway between Nos. 52 and 54 Copeland Grove provides pedestrian access to the Malahide Road beyond. This laneway adjoins the south-western boundary of the subject site.
- 1.3. The subject site accommodates 1 of 6 no. 2-storey, semi-detached dwellings which are arranged around the cul-de-sac. The existing dwelling has a 2-storey and single-storey extension to the side and rear, with off-street car parking to the front. The rear garden extends to a depth of approx. 29 m, beyond which is located Mount Temple Comprehensive School.
- 1.4. The property has an extensive side garden which is fenced off from the remainder of the site. The side garden is not used as a primary amenity space and is characterised by mature trees and is substantially overgrown. The buildings associated with Mount Temple Comprehensive School abut the north-eastern boundary of the side garden, with an undeveloped land parcel with a number of glasshouse structures abutting the northern and north-western boundaries. The rear gardens of the 2-storey, semi-detached dwellings at Nos. 108-118 Malahide Road are located beyond this undeveloped land parcel.

## 2.0 Proposed Development

- 2.1. The proposed development comprises: (1) 3 no. adjoining 3-bedroom, 2-storey dwellings with associated shared surface parking; (2) the demolition of part of the existing dwelling to provide access to the proposed dwellings and shared parking with the existing dwelling; and, (3) SuDS drainage, landscaping and boundary treatments to facilitate the development.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Notification of the Decision to Refuse Permission issued on 28<sup>th</sup> April 2020 for 2 no. reasons as follows:

(1) the development would be contrary to Section 16.10.16 of the Dublin City Development Plan 2016-2022 in relation to mews dwellings by reason of the substandard site access and would set an undesirable precedent for other similar developments; and,

(2) the development of 3 no. houses on a backland site, which relies on a narrow front garden for access fronting a turning circle at the end of a cul-de-sac and which necessitates the removal of part of the original house, would result in a convoluted arrangement which seriously injure the visual and residential amenities of the cul-de-sac and would set an undesirable precedent.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

3.2.2. Basis of Planning Authority's decision.

3.2.3. Dublin City Council's Planning Officer considered that the site was sufficiently large to accommodate the 3 no. proposed dwellings and to provide an acceptable standard of residential amenity for future occupants. However, serious concerns arose in relation to the inadequate width of the vehicular access route to the site and the alterations required to the existing house to provide the access.

#### 3.2.4. Other Technical Reports

3.2.5. **Transportation Planning Division:** Recommended that planning permission be refused on the basis that the development would be contrary to Section 16.10.16 of the development plan with respect to mews dwellings, by reason of traffic safety.

3.2.6. **Engineering Department – Drainage Division:** No objection subject to conditions.

### 3.3. Prescribed Bodies

3.4. **Irish Water:** None received.

3.5. **Irish Rail:** None received.

3.6. **Third Party Observations**

- 3.6.1. A total of 35 no. third party observations was made on the application from: (1) Derek McGrath, No. 14 Copeland Gove, Clontarf, Dublin 3; (2) Allison O'Hara, No. 15 Copeland Grove, Clontarf, Dublin 3; (3) Chris van der Lee, No. 31 Copeland Grove, Clontarf, Dublin 3; (4) Sam Saarsteiner & Róisín McDaid, No. 50 Copeland Grove, Clontarf, Dublin 3; (5) Cllr. Jane Horgan-Jones, Criminal Courts of Justice, Parkgate Street, Dublin 8; (6) Anthony & Imelda Walsh, No. 53 Copeland Grove, Clontarf, Dublin 3; (7) Cllr. Deirdre Heney, 30 Collins Avenue East, Killester, Dublin 5; (8) Cllr. Donna Cooney (no address provided); (9) Mary Tubridy, No. 18 Copeland Grove, Clontarf, Dublin 3; (10) Pauline O'Dwyer, No. 41 Copeland Grove, Clontarf, Dublin 3; (11) Christina Hansberry, No. 48 Copeland Grove, Clontarf, Dublin 3; (12) Brendan & Catherine McKenna, No. 118 Malahide Road, Clontarf, Dublin 3; (13) Paschal Preston & Trish Morgan, No. 54 Copeland Grove, Clontarf, Dublin 3; (14) Brendan & Myra Jordan, No. 120 Malahide Road, Clontarf, Dublin 3; (15) John O'Regan, No. 38 Copeland Grove, Clontarf, Dublin 3; (16) Lisa & Roger Bejenaru, No. 110 Malahide Road, Clontarf, Dublin 3; (17) Jessie Watson, No. 108 Malahide Road, Clontarf, Dublin 3; (18) Priscilla Ahern, No. 4 Copeland Grove, Clontarf, Dublin 3; (19) Sheila O'Sullivan, No. 102 Malahide Road, Clontarf, Dublin 3; (20) Lynsey Farrell & Tara McQuaid, No. 122 Malahide Road, Clontarf, Dublin 3; (21) Judith Duggan, No. 13 Copeland Grove, Clontarf, Dublin 3; (22) Thomas Waller, No. 12 Copeland Grove, Clontarf, Dublin 3; (23) Alan & Róisín Redmond, No. 42 Copeland Grove, Clontarf, Dublin 3; (24) David & Mary Ryan, No. 7 Copeland Grove, Clontarf, Dublin 3; (25) Peter Johnson, No. 25 Copeland Grove, Clontarf, Dublin 3; (26) Damian & Niamh Bracken, No. 49 Copeland Grove, Clontarf, Dublin 3; (27) Brenda & Paul Dolan, No. 36 Copeland Grove, Clontarf, Dublin 3; (28) Judith Lanigan & Michael Giblin, No. 33 Copeland Grove, Clontarf, Dublin 3; (29) Michael & Catherine Byrne, No. 39 Copeland Grove, Clontarf, Dublin 3; (30) Denise & James Lidieth, No. 40 Copeland Grove, Clontarf, Dublin 3; (31) Nora & Jerry McMahon, No. 45 Copeland Grove, Clontarf, Dublin 3; (32) Mary Kilduff, No. 29 Copeland Grove, Clontarf, Dublin 3; (33) Stephen & Dolores Kavanagh, No. 46 Copeland Grove, Clontarf, Dublin 3; (34) Seán Haughey TD, Dáil Éireann, Leinster House,

Kildare Street, Dublin 2; and, (35) Cian O'Callaghan, Leinster House, Kildare Street, Dublin 2.

3.6.2. The issues which were raised can be summarised as follows:

(1) inappropriate backland development; (2) 2 no. previous refusals of planning permission for similar developments on the site; (3) overdevelopment; (4) negative impacts on the adjoining pedestrian laneway, the proposed use of which, has not been adequately clarified; (5) increased traffic congestion on Copeland Grove; (6) inadequate car parking provision; (7) overloading impact on 1940's drainage system; (8) inadequate site access; (9) negative impacts on the residential amenity of neighbouring properties; (10) negative impact on the character of the cul-de-sac; (11) construction impacts; (12) the development is contrary to the site's Z1 zoning objective; (13) loss of on-site vegetation will increase flooding risk; (14) the biodiversity and green infrastructure of the site have not been considered; (15) insufficient remaining curtilage to the front of the existing dwelling; (16) no history of anti-social behaviour on the adjoining public laneway; (17) overlooking; (18) insufficient access for emergency / refuse vehicles; (18) insufficient bin storage space on the public footpath; (19) conflict between traffic and pedestrians at the site access/public footpath.

## 4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 2856/19:** Planning permission refused on 20<sup>th</sup> June 2019 for three adjoining 2-bedroom, 2-storey mews houses with associated shared surface parking and providing access to the side of No. 52 Copeland Grove, combined with existing laneway; SuDS drainage, landscaping and boundary treatment required to facilitate the development.
- 4.2. Planning permission was refused for 1 no. reason on the basis that the proposed access, incorporating the existing pedestrian lane, would be severely substandard and would cause serious injury to the residential amenities of the area.
- 4.3. **Planning Authority Reg. Ref. 3053/18:** Planning permission refused on 12<sup>th</sup> July 2018 for a terrace of 4 no. houses with associated access road and services and alterations to existing house, comprising of reduced floor area to accommodate access road at No. 52 Copeland Grove.

4.4. Planning permission was refused for 4 no. reasons including: (1) the proposal would not be consistent with development plan policy concerning backland development; (2) serious injury to the residential amenity of No. 52 Copeland Grove and to the residential amenities of neighbouring dwellings in the vicinity; (3) the proposed vehicular entrance would have a significant impact on the residential amenity of Nos. 50, 52 and 54 Copeland Grove through visual impact, increased traffic and noise generation and general intrusion on residential amenities; and, (4) the proposed development would have a serious and undue impact on the safe access and usability of a long-established pedestrian right-of-way by reason of its less accessible layout and severely reduced pavement width.

## 5.0 Policy and Context

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

### 5.2. Land Use Zoning

5.2.1. The site is subject to land use zoning “Z1” (Sustainable Residential Neighbourhoods) which has the objective, “to protect, provide and improve residential amenities”. Residential land uses are permissible under this zoning objective.

### 5.3. Housing Policy

5.3.1. The housing policies of Dublin City Council are set out in Chapter 5 of the development plan. The policies which are directly relevant to this appeal case are identified below.

5.3.2. **Policy QH1:** To have regard to the DEHLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007), ‘Delivering Homes Sustaining Communities – Statement on Housing Policy’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2015) and ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual: A Best Practice Guide’ (2009).

5.3.3. The “Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities” (2007) identify a target gross floor area

of 92 m<sup>2</sup> for a 3-bedroom/5-person, 2-storey house, with the following minimum internal room dimensions:

- **Min. main living room:** 13 m<sup>2</sup>
- **Aggregate living area:** 34 m<sup>2</sup>
- **Aggregate bedroom area:** 32 m<sup>2</sup>
- **Storage:** 5 m<sup>2</sup>

5.3.4. **Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

5.3.5. **Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

5.3.6. **Policy QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

#### 5.4. **Backland Development**

5.4.1. Section 16.10.8 of the development plan states that Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area. Applications for backland development will be considered on their own merits.

#### 5.5. **Corner/Side Garden Sites**

5.5.1. Section 16.10.9 of the development plan notes that such development can make valuable additions to the residential building stock of an area and will generally be allowed on suitable larger sites.



5.5.2. The Planning Authority will have regard to the following criteria in assessing such proposals:

- The character of the street;
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings;
- Impact on the residential amenities of adjoining sites;
- Open space standards and refuse standards for both existing and proposed dwellings;
- The provision of appropriate car parking facilities, and a safe means of access to and egress from the site;
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area;
- The maintenance of the front and side building lines, where appropriate.

## 5.6. **Infill Housing**

5.6.1. The development standards concerning infill housing are set out in section 16.10.10 of the development plan. In general, infill housing should comply with all relevant development plan standards for residential development. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

5.6.2. Infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings;
- Comply with the appropriate minimum habitable room sizes;
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

## 5.7. Alterations and Extensions

- 5.7.1. The development standards regarding alterations and extensions to existing dwellings are set out in Sections 16.2.2.3, 16.10.12 and Appendix 17 of the development plan. Dublin City Council will seek to ensure that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context and the amenity of adjoining occupiers.

## 5.8. Private Open Space

- 5.8.1. A minimum standard of 10 m<sup>2</sup> of private open space per bedspace will normally be applied, with up to 60-70 m<sup>2</sup> of rear garden area sufficient for houses in the city.

## 5.9. Car Parking

- 5.9.1. The site is located in Area 2 of the city, within which, a maximum standard of 1 no. car parking space per dwelling applies.

## 5.10. Road Standards for Residential Development

- 5.10.1. The road and footpath standards for residential development are set out in Appendix 5 of the development plan. All road and footpaths shall be constructed to taking-in-charge standards. Where houses are provided on one side of the road only, the minimum width of road should be 5.5m with a 1.8 m footpath on the side next to the houses, and a footpath or rubbing kerb on the opposite side, depending on likely pedestrian usage.

- 5.10.2. The planning authority will adopt a flexible attitude regarding restricted road widths over short lengths, where no other practicable solution is possible. However, this flexible attitude will not apply where it is not possible to provide an access of sufficient width to comply with safety and engineering requirements.

## 5.11. National Planning Framework (NPF)

- 5.11.1. The NPF sets out objectives which aim to secure more compact and sustainable growth patterns in urban areas in the period to 2040.

- 5.11.2. **National Policy Objective 3b** seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

## 5.12. Natural Heritage Designations

5.12.1. None.

## 5.13. EIA Screening

5.13.1. Having regard to the nature and scale of the proposed development, comprising 3 no. residential dwellings in an established residential area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A first party appeal has been lodged by David Moran Architects on behalf of the applicants, the grounds of which can be summarised as follows:

- The current proposal notes the site access as being 6.8 m in width, with a minimum width of 5.8 m at the southern end of the site measured from the lane-side surface of the lane wall to the west and the centre line of the front boundary wall to the east, with an available clear dimension of 5.652 m;
- The development is consistent with the provisions of S. 16.10.16 (i) of the development plan with respect to safety and the width of the laneway;
- The walls bounding the laneway are in the ownership of the properties adjoining the laneway, thereby establishing the responsibility for these walls to the property owners;
- It is proposed to remove the boundary wall onto the laneway for the full length of the access route, with the possibility of removing it along the full boundary length of the site;
- The applicant and other residents in the area have a long-standing right-of-way over the laneway, which warrants its inclusion for the purposes of access to the site and will provide adequate and compliant access in a safe manner without incurring significant additional traffic;

- If permitted, the use of the existing laneway will provide a heightened level of visual control over this space;
- The increased laneway width would provide pedestrians with an advanced warning of approaching pedestrians and ensure social distancing can be maintained. The possible removal of the lane wall over the full length of the site, would further improve the possibility for social distancing;
- The access route is not intended to be taken-in-charge but will be constructed and surface-treated to the satisfaction of the local authority. Varied surface material can be applied to the access route as a means of protecting pedestrians;
- A construction stage plan will be prepared to manage construction impacts on the laneway;
- Post completion, the use of the laneway and minimal associated traffic would not comprise a health and safety risk to any users. The details of the interface between the proposed new carriageway and public road/path may be conditioned in the event planning permission is granted;
- Two-way traffic on the access route will be based on driver observations, as most users will be familiar with the arrangements;
- Access for fire tenders has been considered at the design stage, with a turning circle of 14.8 m in diameter achievable in the space provided. With cars removed and the lane opened up to expose the site frontage to the lane, the requirements of Technical Guidance Document, Part B, Table 5.2 are achievable;
- The alterations to the existing house will remove an existing box room over the entrance hallway. The alterations will provide an improved use of internal space, with 3 no. bedrooms remaining, the smallest of which is 10.2 m<sup>2</sup>;
- The proposed alterations to the existing house are compliant with DEHLG Guidelines on '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007), while compliance with Building Regulations concerning accessibility has been significantly improved;

- The use of brick in the amended front façade of the existing dwelling reflects recent alterations to No. 51 Copeland Grove, which has incorporated brick at the ground and 1<sup>st</sup> floor levels;
- The new entrance doorway is recessed 1.5 m from the new vertical brick façade, and as such, does not open directly onto the access route as noted by an observer;
- The proposed additional on-site car parking is unlikely to have a negative impact on the area;
- No overlooking of the existing houses on the Malahide Road will occur from the proposed development;
- The presence of Dutch Elm disease requires the removal of a number of the existing site trees, with no evidence of bats or foxes on site;
- SuDS measures will be used to control surface water from the site, with the potential for permeable paving to be provided in areas of hardstanding;
- The existing public foul drain is sufficient to accommodate the proposed development;
- The proposed development is compliant with the site's zoning objective, does not constitute over-development and would provide much needed accommodation on an under-utilised site, in an area well served by public transport.

6.1.2. The appeal submission includes a list of planning permissions (appendix 1) which are submitted as precedents for the proposed access arrangements.

## 6.2. **Planning Authority Response**

6.2.1. None received.

## 6.3. **Observations**

6.3.1. A total of 26 no. third party observations have been made on the application from: (1) Michael & Catherine Byrne; (2) Seán Haughey TD; (3) Mary Kilduff; (4) Brenda & Paul Dolan; (5) Aodhán Ó Ríordáin TD; (6) David & Mary Ryan; (7) Emma Murphy;

(8) Chris van der Lee; (9) Mary Tubridy; (10) Judith Duggan, Angela Fox, Maeve Maher, Pauline Cahill & Deirdre Sheil; (11) Nora & Jerry McMahon; (12) Imelda & Tony Walsh; (13) Tom O'Connor; (14) Niamh & Damian Bracken; (15) Christina Hansberry; (16) Bridget & Derek McGrath, Thomas Waller, Patrick Owens, Tara O'Callaghan & Eric Morrissey; (17) Rita Fitzgerald, Priscilla Shaw, John Gillen, Noel Scott & Alan Redmond; (18) Brendan & Catherine McKenna, Brendan & Myra Jordan, Lisa & Roger Bejenaru, Lynsey Farrell, Tina McDonagh, Jessie Watson, Sheila O'Sullivan, Peter & Diane Hanbury and Andrew Tucker; (19) Pauline O'Dwyer, Mary Rogan, John O' Regan, Peter Johnson and Eamon Magee; (20) Denise & James Lidieth; (21) Paschal Preston & Trish Morgan; (22) Cllr. Deirdre Heney; (23) Judith Lanigan & Michael Giblin; (24) Cllr. Catherine Stocker; (25) Stephen & Dolores Kavanagh; (26) Cllr. Naoise ÓMuirí.

6.3.2. No new issues have been raised. (See section 3.6.2 of this report regarding third party observations).

#### 6.4. **Further Responses**

6.4.1. None.

### 7.0 **Assessment**

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

- Principle of the Development
- Site Access
- Alterations to Existing Dwelling
- Planning Precedent
- Appropriate Assessment

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

#### 7.3. **Principle of the Development**

7.3.1. The site is subject to land use zoning "Z1" (Sustainable Residential Neighbourhoods) which has the objective "to protect, provide and improve residential amenities". Residential land uses are permissible in principle under this zoning objective. The subject site is generous in area, and as such, I consider that the side garden is

suitable to accommodate an increased density of residential development, as advocated under the development plan and the NPF.

- 7.3.2. I note that the floor area of each of the 3 no. proposed dwellings exceeds the minimum standard of 92 m<sup>2</sup> set out in the “Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities” (2007) at 167.8 m<sup>2</sup>, 259.9 m<sup>2</sup> and 280.8 m<sup>2</sup> respectively. The rear private amenity space to serve the proposed dwellings ranges from 84.6 m<sup>2</sup> – 219.2 m<sup>2</sup>, and as such, complies with development plan standards.
- 7.3.3. While overlooking concerns have been raised by the observers, I consider that no such impacts would arise, having regard to the configuration of the development within the subject site and the separation distances of 19 m and 35 m which would arise respectively, to the rear garden of No. 54 Copeland Grove to the west and the dwellings on the Malahide Road to the north-west.
- 7.3.4. Notwithstanding the foregoing, in my opinion, the key consideration in this case is the proposed site access as discussed below.

#### **7.4. Site Access**

- 7.4.1. The observers raise significant concerns regarding the proposed site access and car parking arrangements. Several observers submit that the planning application drawings lack detail of the amendments which are proposed to the shared boundary wall onto the adjoining pedestrian laneway, which is noted to be a public right-of-way. It is submitted that the use of the laneway to facilitate vehicular access to the site, will result in significant conflicts with pedestrians, who use the laneway on a daily basis to access a range of nearby services and educational facilities.
- 7.4.2. I agree that the site plan drawing (Drawing No. P-03) does not clarify the amendments which are proposed to the shared boundary wall with the adjoining pedestrian laneway. A comparison of the existing and proposed contiguous elevations (Drawing No. P-07) indicates that it is proposed to remove the southern portion of the wall, adjacent to the site entrance. This matter is clarified further by the appeal submission, wherein the applicant’s agent confirms the intention to remove the boundary wall for the full length of the access route. The applicant’s agent submits that the removal of this portion of the wall, will provide a minimum access width of 5.8 m and an available clear dimension of 5.652 m at the site entrance

adjacent to the public footpath. These dimensions include the entire width of the pedestrian laneway as illustrated in photograph 1 of the appeal submission.

- 7.4.3. The applicant's agent submits that the applicants (and other local residents) have a long-standing, right-of-way over the laneway, which warrants its inclusion for the purposes of site access and which will provide adequate and compliant access in a safe manner, without incurring significant additional traffic. The applicant's agent states that differentiated surface materials can be applied to the access route to the satisfaction of the Local Authority, to avoid conflicts between pedestrians and car users. In this regard I note that the Transportation Planning Division of Dublin City Council recommended that planning permission be refused for the proposed development, having regard to the location of the site on a narrow laneway, which was considered to be substandard in width, with no verges or footpaths. As such, the development was deemed to be contrary to Section 16.10.16 of the development plan with respect to mews dwellings, by reason of traffic safety.
- 7.4.4. I note the development standards for residential roads and footpaths as set out in Appendix 5 of the development plan. Where houses are provided on one side of the road only, the minimum road width should be 5.5 m, with a 1.8 m footpath on the side next to the houses, and a footpath or rubbing kerb on the opposite side, depending on pedestrian usage. While the planning authority will provide a flexible approach to restricted road lengths over shorter lengths where no practical solution is possible, this will not apply where an access of sufficient width to comply with safety and engineering requirements cannot be provided.
- 7.4.5. While the applicant's agent submits that a clear dimension of 5.652 m can be facilitated for the site access adjacent to the public footpath, the proposed access arrangements rely on using the full width of the pedestrian laneway at the southern end of the site. This laneway is a public right-of-way. A segregated footpath to serve the existing dwelling has not been provided.
- 7.4.6. In my opinion, the proposed access arrangements would result in a significant and unacceptable conflict between vehicles entering/exiting the site and pedestrian users of the adjoining public footpath and laneway, notwithstanding the proposal to vary the surface materials to avoid such conflicts. I note that planning permission to increase the residential density of the site has been refused on 2 no. previous



occasions, both of which included refusal reasons relating to the restricted site access.

- 7.4.7. I note that the shared access route is not sufficiently wide to facilitate 2-way traffic movements, which may result in a conflict between cars entering and exiting the site. I further note that in order to exit the 1 no. car parking space serving the existing dwelling, reverse movements would be required along the shared access route or into the shared space to the front of the proposed dwellings, with limited visibility around the corner of the existing dwelling. While the applicant's agent submits that two-way traffic within the site will be based on driver observation's, most of whom will be familiar with the site, I do not consider that this is an acceptable solution in this instance, and note that visitors to the site are unlikely to be familiar with the internal arrangements.
- 7.4.8. In my opinion, the proposed access arrangements, which can only be achieved by demolishing part of the existing dwelling and by reassigning the use of an existing public right-of-way, would be unacceptable and would result in vehicular conflicts within the site and with pedestrian users of the adjoining laneway and public footpath. As such, I consider that planning permission should be refused on this basis.

## **7.5. Alterations to Existing Dwelling**

- 7.5.1. In order to facilitate the vehicular access within the site, it is proposed to demolish part of the existing dwelling, including the entrance/hallway at ground floor level and a single bedroom above at 1<sup>st</sup> floor level. The revised side elevation will be finished in brick and will be off-set from the front façade of the dwelling and the 2-storey extension to the side/rear. The proposed vehicular access will also require the reassignment of most of the front driveway area, with limited space remaining to facilitate 1 no. car parking space to the side of the existing dwelling.
- 7.5.2. The observers submit that the proposed alterations would have a negative visual impact on the character of the cul-de-sac. In response, the applicant's agent submits that the alterations would improve the use of the internal space within the dwelling, while the proposed use of brick, reflects its recent inclusion in the façades of neighbouring properties, including at No. 51 Copeland Grove.

7.5.3. In my opinion, the proposed amendments are not sympathetic to the style of the existing dwelling and would have a negative visual impact on its character and that of the cu-de-sac, in street level views of the site. In this regard I note that it is proposed to provide a flat roof to the amended side elevation, which extends above the existing pitched roof to the side and rear. I further note that the revised side elevation would partially obscure the existing windows at ground and 1<sup>st</sup> floor levels of the 2-storey extension to the side/rear of the dwelling. I also consider that the reduced curtilage to the front and side of the existing dwelling would result in a cramped arrangement, with insufficient clear circulation space remaining between the shared access route and the side/front elevations. As such, I consider that planning permission should be refused on this basis.

## **7.6. Planning Precedent**

7.6.1. The appeal submission includes a list of applications which are considered to demonstrate precedent for the proposed development. In my opinion, the access arrangements which are proposed in this instance, are not reflected in the identified cases. As such, I do not consider that these applications are appropriate precedents for the purposes of this case.

## **7.7. 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 planning permission be refused in this instance.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the restricted site access arrangements, which require the use of a pedestrian laneway which is a public right-of-way to facilitate vehicular movements, it is considered that the proposed development represents an inappropriate form of development, which would create an unacceptable conflict between vehicular traffic and pedestrian users and would endanger public safety by reason of traffic hazard. As such, the proposed development would be contrary to Section 16.10.9 of the Dublin City Development Plan 2016-2022 regarding the development of corner/side garden sites, with respect to site access. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. The proposed alterations would be out of character with the existing dwelling and neighbouring residential properties and would set a precedent for further inappropriate development in the vicinity of the site. The proposed development would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.

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Louise Treacy  
Planning Inspector

14<sup>th</sup> September 2020