



An
Bord
Pleanála

Inspector's Report ABP 307435-20.

Development	Demolition of existing industrial unit and construction of 3 no. townhouses.
Location	Terry Jackson Motors, Lower Road, Shankill, Dublin 18.
Planning Authority	Dún Laoghaire-Rathdown Co. Council
Planning Authority Reg. Ref.	D20A/0130
Applicant	Terry Jackson
Type of Application	Permission
Planning Authority Decision	Refusal permission
Type of Appeal	First Party
Appellant	Terry Jackson
Observers	None
Date of Site Inspection	18/8/2020
Inspector	Siobhan Carroll.

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1.0 Site Location and Description

- 1.1. The appeal site is located at Lower Road, Shankill, Dublin 18. The site lies in close proximity to the Shankill Main Street which contains a variety of retail, commercial, entertainment and office uses. Lower Road Shankill contains a mix of residential and commercial properties.
- 1.2. The site has an area of circa 0.06265 hectares and contains a single-storey light industrial building with an area of 297sq m. It is occupied by the premises of a Terry Jackson Motors. The site has frontage of circa 32m. The roadside boundary is defined by a capped and rendered wall and gated vehicular entrance. There are two single-storey detached dwellings to the east of the site. The single-storey building located circa 18m to the west of the site contains Shankill Day centre. The northern site boundary addresses Guilford Terrace. Guilford Terrace contains 5 no. single storey cottages served by pedestrian access off a cul-de-sac off Lower Road.
- 1.3. Directly opposite the site to the southern side of Lower Road there is a terrace of 3 no. two-storey dwellings and another premises of Terry Jackson Motors.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the existing light industrial unit; and the construction of a two storey terrace comprising 2 no. two bedroom and 1 no. 3 bedroom townhouses with parking; new vehicular and pedestrian access directly off Lower Road, and ancillary site development works.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason;

1. Having regard to the nature and overall scale of the proposed development, and in particular its height and limited set back from the northern boundary, it is considered that the proposed development would have an overbearing impact on adjoining properties, and thereby adversely impact on the residential amenities of the area. Furthermore, given the limited depth of the

rear garden areas, the proposed development would be contrary to Section 8.2.8.4 (ii) 'Separation Distances' of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and would fail to provide an adequate quality of private open space for future occupants. The proposed development would, therefore, be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022 and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning Authority concluded that the proposed development would be contrary to Section 8.2.8.4 (ii) of the Development Plan which refers to 'Separation Distances' having regard to the limited rear garden depths proposed. It was also concluded that the proposed development would have an overbearing impact on the adjoining properties and that it would fail to provide an adequate quality of private open space for future residents given the limited rear garden areas proposed.

3.2.2. Other Technical Reports

Drainage Planning – Further information sought in relation to SuDS proposals.

Transportation Planning – Further information sought in relation to sightlines, vehicular manoeuvres, footpath widths, boundary treatment, public utilities and construction management.

EHO – No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – Further information requested.

3.4. Third Party Observations

- 3.4.1. The Planning Authority did not receive any observations/submission in relation to the application.

4.0 Planning History

PA Reg. Ref. 19A/0097 & ABP 304353-19 – Permission was refused by the planning authority and refused on appeal for the demolition of the existing light industrial unit, and the construction of a two-storey terrace comprising four number two bedroomed townhouses with parking, new vehicular and pedestrian access directly off Lower Road and ancillary site development works. Permission was refused for the following reason;

1. The proposed development, due to its overall scale, height, siting, and limited set back from the northern boundary, would be visually intrusive, have an overbearing impact on adjoining properties and would fail to provide an adequate quality of private open space for the intended occupants. Furthermore, the proposed development would detract from the residential amenities of adjoining properties, would be contrary with the provisions of the current County Development Plan for the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Reg. Ref. D04A/1073 – Permission was refused for the demolition of the light industrial unit and the development of a residential development comprising 10 no. apartment units within a two and three storey building. Permission was refused for two reasons;

1. The proposed new vehicular access is located on a bend and has inadequate visibility. The proposed development would therefore endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its bulk and scale would be overbearing and visually obtrusive in its setting, would detract from the streetscape, would seriously injure the amenities of the area and would therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

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

- It is zoned Objective A ‘to protect and/or improve residential amenity’.
- Chapter 8 – Principles of Development
- Section 8.2.3 – refers to Residential Development
- Section 8.2.8.4(i) – refers to Private Open Space for Houses

5.2. Natural Heritage Designations

5.2.1. Rockabill to Dalkey Island SAC (Site Code 003000) is 3km to the north-east of the appeal site.

5.2.2. Dalkey Island SAC (Site Code 004172) is 5.1km to the north-east of the appeal site.

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 was submitted by Kane Architecture on behalf of the applicant Mr. Terry Jackson. The issues raised are as follows;

- The reason for refusal states, ‘...it is considered that the proposed development would have an overbearing impact on adjoining properties’. The

report of the Planning Officer stated that *'it is not considered that the previous refusal reason has been overcome in that a two-storey building is still proposed in close proximity to the common boundaries of the site.'*

- The refusal reason states that *'...the proposed development would be contrary to Section 8.2.8.4(ii) 'Separation Distances of the Dun Laoghaire-Rathdown County Development Plan, 2016-2022 and would fail to provide adequate quality of private open space for future occupants'*. The report of the Planning Officer refers to the separation distances and also raises concern in relation to the quality of the open space due to the limited depth and northern orientation. The report of the Planning Officer also expresses concern in relation to the impact proposed development will have on the adjoining properties and the future development of the site to the north.
- The primary basis for the reason for refusal and the previous refusal refers to the context of the proposed development within the streetscape and specifically the relationship with adjoining single storey properties. This relies on the contention that there is no precedent for this scale of development on this street. An analysis of the street and surrounding area indicates that there are numerous two-storey buildings adjacent to or in close proximity to the single storey cottages. The appeal includes images and details of some of these buildings.
- Having regard to the location of two-storey properties adjacent to single storey buildings on Lower Road, the first party contends that Lower Road and the roads leading to it are characterised by a mix of usage, height and style and that the proposed development which would replace the existing industrial unit would be in keeping with the context of the site and rhythm of the surrounding buildings.
- Regarding the matters of separation distances and the quality of open space, the report of the Planning Officer cites a minimum of 22m between directly opposing first floor windows to the rear. The report of the Planning Officer does acknowledge that there are no directly opposing upper floor windows to the rear. Concern is expressed in the report at the impact on the future development of the site to the north. The site to the north is the side garden of

no.5 Guilford Terrace and it is landlocked with no potential for vehicular access. Any future residential development of this site would potentially comprise an extension or dwelling with either facing or perpendicular to the rear elevation of the proposed development. It is not considered that the future development of the site would result in rear to rear elevations therefore future overlooking would not be a factor.

- In relation to the quality of open space, the report of the Planning Officer refers to the limited depth and northern orientation. A shadow study has been provided within the appeal. It indicates that during the summer the proposed gardens would generally enjoy 50% sun. It is noted that the extensive tree growth on the site to the north of the proposed development would preclude sunlight into the rear gardens during the winter, regardless of depth. The appellant submits that notwithstanding either of these points that the requirement for 22m separation is not valid and that the quantum of open space required has been provided. Therefore, it is submitted that this issue should not be a ground for refusal.
- Regarding the issue of overbearing impact on the adjoining properties to the north, this refers to Guilford Terrace. Guilford Terrace is a narrow unsurfaced laneway containing a terrace of five single storey cottages. It is submitted that the changes to the previously proposed scheme in terms of the proposed height and roof style will ensure that this development will not have an overbearing impact on Guilford Terrace or any other adjoining properties. The appeal includes a before and after visualisation of the proposed development as viewed from the garden of no. 5 Guilford Terrace, the entrance to Guilford Terrace and from the Lower Road.
- In conclusion, it is submitted that the proposed development would be in line with the height and scale of other developments adjacent to the site and that it would not adversely impact upon the residential amenities of the area. The quantum of open space required for each unit has been provided.

6.2. Planning Authority Response

- The Board is referred to the report of the Planning Officer.

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

7.0 **Assessment**

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

- Design and impact on residential amenity.
- Appropriate Assessment

7.1. **Design and impact upon residential amenity**

- 7.1.1. The subject site is located in an area zoned 'A' in the Dun Laoghaire-Rathdown Co. Development Plan 2016-2022, with the stated land use zoning objective 'To protect, provide and/or improve residential amenity' wherein appropriate infill residential development may be provided in accordance with the principles of good design and the protection of existing residential amenity.
- 7.1.2. The proposed development involves the demolition of the existing industrial building which is currently occupied by the premises of a motor business and its replacement with a terrace of 3 no. two-storey dwellings. Accordingly having regard to the zoning of the site there is no principled objection to the proposed residential development of the site. However, having regard to relative limited site size it is necessary to establish whether it is appropriate to accommodate the subject development taking into account the relevant planning considerations.
- 7.1.3. The Planning Authority refused permission on the basis that the overall nature and scale of the proposed development in particular the proximity of the dwellings to the northern boundary would result in the development having an overbearing impact on the adjoining properties. The Planning Authority also considered that the proposed development failed to provide an adequate quality of private open space for future occupants in respect of the limited depth of the rear garden areas.

- 7.1.4. In response to this it is stated in the appeal that main issue in the respect of the refusal relates to the context of the proposed development within the streetscape and specifically the relationship with adjoining single storey properties. It is highlighted in the appeal that there are a number of two-storey buildings located in the area surrounding the site. The first party note that there are a mix of building heights, designs and uses along Lower Road and the roads leading to it. They submit that the proposed development would integrate with the context of the site and rhythm of the surrounding buildings.
- 7.1.5. The reason for refusal refers to the nature and overall scale of the development, particularly the proposed height and limited set back from the northern site boundary. The Planning Authority concluded that the proposed development would have an overbearing impact on adjoining properties. I note the existing industrial building on site, the double height section of the buildings is situated on the western side of the site, while the single storey office section is located in the north-eastern corner of the site which is closest to the adjoining properties. The proposed two-storey dwellings have a ridge height of 6.3m. I note that the rear elevation of House no. 2 projects out a further 2.4m from the main rear building line of the scheme at ground and first floor and therefore this element of the dwelling would only be setback 4.5m from the northern site boundary.
- 7.1.6. No. 5 Guilford Terrace is located circa 9m from the northern site boundary with no. 4 being situated circa 10.5m from the boundary. These are single storey cottages within a terrace of five properties. The adjoining property to the east of the site is a detached bungalow, I note that the proposed rear building line of House no. 3 is roughly in line with the building line of the adjoining property. Having regard to the limited rear garden depths proposed, the two-storey nature of the dwellings and the proximity of the proposed development to the adjoining properties specifically at Guilford Terrace, I would concur with the assessment of the Planning Authority that the proposed development would be visually intrusive and have an undue overbearing impact.
- 7.1.7. In relation to the matter of how the development would integrate into the streetscape, I note the concerns of the Planning Authority as set out in the report of the Planning Officer. They considered that the proposed development failed to have regard to the context of the site and its relationship with the adjoining single storey properties.

- 7.1.8. The appellant cites the proximity of existing two-storey buildings along Lower Road and the surrounding area. There is a terrace of 3 no. two-storey dwellings directly opposite the appeal. These properties are setback circa 6m from the road. The proposed development would be setback 3.11m from the roadside boundary at the south-eastern corner of the site and it would be setback 6.267m from the roadside boundary at the south-western corner. While I note that the House no. 1 would be setback on site while the existing light industrial building is located directly adjacent to the roadside boundary, I would share the concerns of the Planning Authority that having regard to the siting, design which includes the projection of sections of the first floor forward of the front building line and two-storey nature of the development that it would appear visually prominent in the streetscape.
- 7.1.9. In terms of private open space the scheme as proposed provides rear gardens to serve each property. House no. 1 is a two-bedroom dwelling with a floor area of circa 105sq m. A rear garden with an area of 50sq m and a depth of 6.9m is proposed to serve that property. House no. 2 is a three-bedroom dwelling with a floor area of circa 140sq m. A rear garden with an area of 79.4sq m and a depth of 7.6m is proposed to serve that property. House no. 3 is a two-bedroom dwelling with a floor area of circa 105sq m. A rear garden with an area of 55.4sq m and a depth of 8m is proposed to serve that property.
- 7.1.10. Section 8.2.8.4(i) of the development plan refers to private open space for houses. It requires that all houses shall have an area of private open space behind the front building. The minimum private open space requirement for two-bedroom houses is 48sq m and for three-bedroom houses is 60sq m. Therefore, in terms of minimum area standards each rear garden achieves the requirement of this section of the plan. Section 8.2.8.4(ii) refers to separation distances. It is specified that a minimum of 22m separation be provided between directly opposing rear first floor windows which results in a minimum rear garden depth of 11m. A provision is made for a reduction to a depth of 7m for single storey dwellings where there is a maintenance of privacy and protection of adjoining residential amenities. The plan does not advise in relation to a reduction in rear garden depth for two-storey dwellings. However, it does advise that in all circumstances that private open space should not be unduly overshadowed and where there is the potential for the proposed development to overshadow or overlook existing/future development adjoining the site, minimum

separation distances to boundaries should be increased. Furthermore, I note that Section 8.2.8.4(ii) of the Plan advises that in the case of a scheme which is considered of an exceptional design which provides an otherwise very high quality living environment and which is also located in close proximity to existing public open spaces, the standards may be considered for relaxation on a case-by-case basis.

7.1.11. It is highlighted in the appeal that the report of the Planning Officer cited a minimum of 22m between directly opposing first floor rear windows however that it was acknowledged that there are no directly opposing upper floor windows to the rear of the site. The report of the Planning Officer did consider that the proposed development could impact on the future development of the site to the north. In response to this matter it is detailed in the appeal that the site to the north is the side garden of no. 5 Guilford Terrace. It is submitted that the development potential of the site is limited as there is no potential for vehicular access. The first party do acknowledge that there is potential for the development an extension or dwelling on the site. However, they do not consider that the development of the proposed scheme would potentially comprise the future development of the site to the north as the future development of the site would not result in rear to rear elevations and therefore opposing first floor windows. While, I note the points raised by the appellant the development of two-storey dwellings on the appeal site with a minimum separation distance of 7m would result in a degree of overlooking of the site to north and depending on the configuration and layout of future scheme could result in overlooking of private amenity space or a property. The proposed floor plans for the dwellings presents an upside down house layout with the living rooms and kitchens at first floor to House no. 1 and no. 3, this would result in residents primarily using the first floor during daytime hours which would increase potential for overlooking to the rear. Furthermore, I note that the provision for reduction in rear garden depth in the Development Plan only relates to single storey dwellings.

7.1.12. Regarding the quality of open space, the report of the Planning Officer cites the northern orientation of the rear gardens. A shadow analysis is included in the appeal. The analysis refers to June and there is shadowing to all the three rear gardens throughout the day. It is submitted in the appeal that during the summer the proposed gardens would generally enjoy 50% sun. However, I noted that shadow analysis was not provided for March 21st, September 21st and December 21st. Given

the northern orientation of the three rear gardens the shadowing experienced during the rest of the year would be increased. Accordingly, I am not satisfied that the appellant has demonstrated that the proposed rear gardens of limited depth would provide sufficient quality to future residents.

7.1.13. Section 8.2.8.4(ii) of the development plan advises that standards for private amenity space may be considered relaxation where the site is located in close proximity to existing public open spaces. In relation to this I note that there are no significant public open spaces within the vicinity of the site.

7.1.14. Therefore, I would concur with the assessment of the planning authority that the provision of private open space is not of a standard to meet the development plan requirements or the recreational needs of future residents of the proposed house. Accordingly, I would therefore conclude therefore that the proposed development would seriously injure the residential amenity of future residents.

7.2. Appropriate Assessment

7.2.1. The appeal 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 serviced 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 that permission is refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to its height, design, scale and proximity to the northern boundary, it is considered that the proposed development, would be visually intrusive and would have an overbearing impact on adjacent dwellings. Furthermore, having regard to the limited rear garden depths and their northern orientation the proposed development would not provide an acceptable standard of private open space for the future residents. Accordingly, the proposed development would be contrary to Section 8.2.8.4(ii) of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The proposed development would, therefore, seriously injure the amenity of future residents of the houses, would seriously injure the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

28th of August 2020