



An  
Bord  
Pleanála

## Inspector's Report ABP-309055-20

### Development

Demolition of rear boundary wall, construction of house, pedestrian and vehicular access, two off-street parking spaces with access via 'Manor Avenue' and associated landscaping..

### Location

12 College Drive, Terenure, Dublin 6W.

### Planning Authority

South Dublin County Council.

### Planning Authority Reg. Ref.

SD20A/0198.

### Applicant(s)

Niall and Julie Broderick.

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission with conditions.

### Type of Appeal

First Party.

### Appellant(s)

Niall and Julie Broderick.

### Observer(s)

Anne Marie Dodd and Adam Dodd,  
Carol Edwards and Greg Edwards,  
Jimmy Dunney and Angela Dunney.

**Date of Site Inspection**

7 May 2021.

**Inspector**

Stephen Rhys Thomas

## 1.0 Site Location and Description

- 1.1. The appeal site is located off a laneway known as Manor Avenue which is accessed off College Drive and Wainsfort Grove in Terenure, Dublin 6. Fortfield Avenue is located to the east serving Terenure College and Templeogue Road is to the south.
- 1.2. College Drive, Wainsfort Park and Wainsfort Grove are well established, mature residential areas comprising a mix of detached, semi-detached and terrace dwellings with good sized gardens and mature trees and hedgerows. College Drive comprises a number of properties with very long rear gardens, and Manor Avenue is a laneway which runs to the rear of these dwellings. Manor Avenue is a narrow laneway which serves 5 dwellings and a commercial unit.
- 1.3. The appeal site itself is formed from part of the rear garden 12 College Drive. The cluster of dwellings from numbers 4 to 20 College Drive have long gardens which back directly onto Manor Avenue. The remaining houses from numbers 22 to 42 back onto Manor Avenue but with slightly shorter rear gardens. The site is stated as being 0.0362 Ha and currently comprises a number of trees and is quite overgrown. The overall site and laneway are flat with no significant changes in level. Manor Avenue is surfaced and well maintained with a grass verge of varying width along its length tighter with street lamps.

## 2.0 Proposed Development

- 2.1. Permission is sought for the demolition of rear a boundary wall, construction of a single house, pedestrian and vehicular access, two off-street parking spaces with access via 'Manor Avenue' and associated landscaping, the detail includes
  - detached, two storey, four bedroom dwelling,
  - two off-street car parking spaces,
- 2.2. Further information was sought on the 1 October 2020 in relation to more refined vehicular access details, documentation was submitted by the applicant on 2 November 2020 and included the following:
  - Written description in response to FI request and scope of works,

- Access arrangement drawings, including proposed road layout and junction detail,
- Outdoor Street Lighting details,

2.3. The revised details concerning the proposal were not re-advertised.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to grant permission subject to 11 conditions, most of a standard and technical nature, of relevance to this appeal are the following two conditions:

1. Development to be in accordance with submitted plans and details. The development shall be carried out and completed in its entirety in accordance with the plans, particulars and specifications lodged with the application, and as amended by Further Information received on 02/11/2020, save as may be required by the other conditions attached hereto.

REASON: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.

#### 4. Roads

1. The roads, footpath and shared surface shall be constructed as detailed in Drawing 19088-5102-PO1. The footpath, shared surface and public lighting improvements detailed shall be constructed and completed by the applicant, at the applicant's expense, prior to the occupation of the subject dwelling.

2. Prior to the commencement of development, the applicant shall submit and agree in writing a public lighting scheme with South Dublin County Council Lighting Department. Once agreed, the scheme shall be constructed/installed to taking in charge standards at the expense of the developer and to the satisfaction of South Dublin County Council Lighting Department.

3. Prior to the commencement of development design details of the Vehicle Activated 3 Traffic Lights shall be submitted to and agreed in writing with the planning authority.

REASON: In the interest of public safety and the proper planning and sustainable development of the area, and in order to comply with The Roads Act 1993 Section 13 Paragraph 10.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The basis of the planning authority decision includes:

Presentation of the County Development Plan standards with regards to existing housing stock and densification. Identification of the area of the site and that the proposed residential development is acceptable. After a request for additional information the vehicular access details along Manor Avenue were changed, the design and scale of the residential development was acceptable. The report includes an AA sensitivity screening and concludes no overlap with relevant layers. The recommendation was to grant permission subject to 11 conditions.

#### **3.2.2. Other Technical Reports**

Roads Dept – initial report required further information on access arrangements, subsequently, no objections subject to detailed specifications and standard technical conditions.

Water Services – no objections subject to standard technical conditions.

### **3.3. Prescribed Bodies**

Irish Water – standard technical conditions.

### **3.4. Third Party Observations**

Eight submissions were received, including a petition from local residents. The issues raised are similar to the issues raised in the observations submitted to the appeal.

## **4.0 Planning History**

### **Appeal Site**

None.

### **Sites in the vicinity**

Most relevant planning applications include:

PA ref SD20A/0199 and ABP ref ABP-308896-20 – Permission for a dwelling.  
Decision pending.

PA ref SD18A/0356 and ABP ref PL06S.**304447** – Permission for 3 terraced dwellings (amended by condition 2). October 2019.

PA ref SD17A/0229 and ABP ref PL06S.**249298** - Permission refused a for a single dwelling to the rear of 8-10 College Drive. January 2018.

PA ref 92A/1445 – Permission refused for a dwelling at 8 College Drive. October 1992.

Other permissions in the vicinity relate to works to existing dwellings and their curtilage.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **South Dublin County Development Plan 2016 – 2022**

Under the County Development Plan 2016 – 2022, the site is zoned ‘RES: To protect and/or improve residential amenity’.

Section 2.4.0 of the Development Plan considers Residential Consolidation – Infill, Backland, Subdivision and Corner sites. Housing Policy 17 states that ‘It is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County’.

H17 Objective 2 states ‘To maintain and consolidate the County’s existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 11 implementation’.

H17 Objective 3 states 'To favourably consider proposals for the development of corner or wide garden sites within the curtilage of existing houses in established residential areas, subject to appropriate safeguards and standards identified in Chapter 11 Implementation'.

H17 Objective 5 states 'To ensure that new development in established areas does not impact negatively on the amenities or character of an area'.

Section 11.3.2 (i) specifically refers to Infill Development. It states (inter alia): Development on infill sites should meet the following criteria: Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual; A site analysis that addresses the scale, siting and layout of new development taking account of the local context should accompany all proposals for infill development. On smaller sites of approximately 0.5 hectares or less a degree of architectural integration with the surrounding built form will be required, through density, features such as roof forms, fenestration patterns and materials and finishes. Larger sites will have more flexibility to define an independent character; Significant site features, such as boundary treatments, pillars, gateways and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street.

Section 11.3.2 (iii) specifically refers to Backland Development. It states that the design of development on backland sites should meet the criteria for infill development in addition to the following criteria: Be guided by a site analysis process in regard to the scale, siting and layout of development; avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area; Development that is in close proximity to adjoining residential properties should be limited to a single storey, to reduce overshadowing and overlooking; Access for pedestrians and vehicles should be clearly legible and where appropriate, promote mid-block connectivity.

## **5.2. Natural Heritage Designations**

None relevant to this suburban site.

## 6.0 Screening for Environmental Impact Assessment

- 6.1. Having regard to the nature and scale of the proposed development comprising the construction of 1 residential unit in a serviced urban 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.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The grounds of the first party appeal to append conditions can be summarised as follows:

- To omit condition 1 that requires works to be carried out in accordance with further information submitted 2 November 2020.
- To omit condition 4 that requires footpath works, shared surface works, public lighting and traffic lights, all at a cost to the applicant. Despite all these works being detailed in a further information request and drawings submitted, it is the appellant's contention that all these works are unnecessary.
- Manor Avenue is a public road and should therefore be maintained by the Council.
- It is unfair to require the appellant and another landowner (SD20A/0199 refers), to pay both a section 48 contribution that contributes to public transport infrastructure and also ask for all the works regarding condition 4 to be carried out as well.
- If all the works are necessary, then condition 4 could be re-written to compel the Council to carry out the works and a condition worded in accordance with section 34(m) of the Planning Act.
- The appellant sets out a description of Manor Avenue, together with photographs, and concludes that if permitted and existing development and the possibility of other rear garden sites being developed, the entire laneway



would serve 15 units. Applying the standards contained in DMURS, the laneway could accommodate low traffic flows without the extent of works proposed. A shared surface type treatment would be appropriate. In addition, the Sustainable Residential Development in Urban Areas, describes home zones as appropriate form of street layout for up to 25 dwellings with one access point.

- Traffic lights are not required, the design of the existing junction, road widths, predicted traffic volumes, traffic speeds and the requirements of DMURS all lead to the conclusion that the infrastructure required by the Council is unnecessary. The appellant sets out four other relatively recent planning applications in the SDCC area that permitted similar backland development without the need for the works required by condition 4. A shared surface road will be safe.
- The double charge costs associated with condition 4 should be borne by the Council, in accordance with section 13 of the Roads Act. Condition 11 already requires the payment of a charge in accordance with section 48 of the Planning Act.
- If a condition is attached by the Board in respect of road works so that the appellant can recoup costs.

## **7.2. Planning Authority Response**

The planning authority's response can be summarised as follows:

- The planning authority confirms its decision and issues raised in the appeal are covered in the planning report.

## **7.3. Observations**

7.3.1. An observation has been received from a joint party, that reiterates concerns and issues already outlined when the application was made to the planning authority, but additional points can be summarised as follows:

- A broad description of the site and its planning history and a concern that two concurrent planning applications should be lodged close together.

- The additional traffic will be dangerous for pedestrians, specifically at the junction of Manor Ave and Wainsfort Grove.
- Northing has changed since a recent permission was refused on traffic grounds along Manor Avenue.
- The various widths of Manor Avenue are incorrectly measured and drawings are inaccurate.
- Manor Avenue is unable to support existing houses never mind any new ones, for example all wheelie bins must be left at the end of the laneway and this causes problems. In addition, rescue vehicles are sometimes unable to access the laneway and there are frequent traffic jams.
- There is general concern at this form of development and many residents seem unhappy.
- Completely against the heavy handed approach of traffic lights and the manner of seeking the changes by further information without advertisement is wrong.
- If permitted there will be a huge loss in flora and fauna from the site.
- There will be overlooking of neighbouring properties.

## 8.0 Assessment

8.1. Having regard to the nature and scale of the development and the specific issue arising, that being a first party appeal against condition number 1 and 4 of the planning authority decision, I am of the opinion that the determination of the application as if it had been made to the Board in the first instance is not warranted. In that regard I note the provisions of section 139 of the Planning & Development Act 2000 (as amended). This assessment will therefore be confined to the specific appeal of condition number 1 and 4 of the planning authority decision.

I consider the key issues in determining this appeal are as follows:

- Manor Avenue
- Costs
- Other Matters
- Appropriate Assessment

### 8.2. Manor Avenue

8.2.1. The appellant is aggrieved that they have been burdened with carrying out all of the works along Manor Avenue and at the junction of Wainsfort Grove. Despite submitting further information drawings that show extensive road works, they now feel that condition 1 should be amended and that condition 4 either be omitted or amended. I note that observers object to the proposed development in its entirety, but no appeal to the decision was received by the Board. The planning authority have raised no further comments to support their decision.

8.2.2. I have decided to assess this appeal under the provisions of section 139 of the Planning & Development Act 2000 (as amended). This means that I agree with the principle of a dwelling house at this location and the use of Manor Avenue as a means of vehicular access. In this context I note the decision of the planning authority to grant permission for a dwelling house in accordance with the proper planning and sustainable development of the area. There are no issues of residential amenity that haven't already been considered and determined to be acceptable to future occupants and local residents alike. I also note the observation to oppose the development, the substantive matter of which refers to the vehicular access

arrangements in general and the proposed works in particular. No third party appeal has been submitted to the Board.

- 8.2.3. As I see it there are two main issues at stake. Firstly, whether the scale of works required by the planning authority are proportionate to the development in hand. Secondly, whether the applicant should shoulder the financial burden to carry out these works.
- 8.2.4. The appellant has proposed a dwelling house in the rear garden of number 12 College Drive, the vehicular access to this new house will be from Manor Avenue, a quiet laneway and a public road. At present Manor Avenue is a single track laneway with grass verges of varying width on either side, it is lit by lamp standards. At the junction of Manor Avenue with Wainsfort Grove, the laneway becomes narrower but still retains a grassed verge on either side. A low boundary wall is to be found to the right as one exits and is associated with 25 Wainsfort Grove, a higher (2 metre) boundary wall is to the left and belongs to 41 Wainsfort Park. The existing laneway serves five dwellings with permission for a further three dwellings, eight in total.
- 8.2.5. Initial drawings submitted with the planning application detail a site layout, car parking and garden space all contained within a red line boundary, no other works are detailed as forming the description of development. The applicant also submitted a masterplan showing a single dwelling house for all the rear gardens of numbers 4-16 College Drive, opening onto Manor Avenue with a shared/pedestrian roadway and possible footpath. Sightlines at the entrance to the junction of Manor Avenue with Wainsfort Grove are detailed. Subsequently, as required by Further Information the applicant submitted very detailed drawings that show a significant amount of works to Manor Avenue, the junction with Wainsfort Grove and Wainsfort Grove itself. The works include changes to the width of roads, new footpaths and shared surface treatments as well as new line markings, traffic lights and new street lighting.
- 8.2.6. The applicant willingly suggested these extensive works as a response to a request to further information from the planning authority but now realises the likely costs and the viability of the project is in question. I note that the appellant has resorted to the Design Manual for Urban Roads and Streets and the Sustainable Residential Development in Urban Areas guidelines to rationalise their project in traffic and access grounds. The appellant argues that even with the extent of their masterplan

layout that would result in a maximum of 15 dwellings (existing, permitted and proposed), shared surfaces and home zones will work and are acceptable. The planning authority are of a different opinion and the Council's Roads Department in particular desire a 6 metre wide two way carriageway with 2 metre wide public footpath, this would involve significant set backs and changes to layouts. I find this to be an unrealistic expectation for Manor Avenue. I accept that the lane's carriageway is narrow but the grass verges are wide and on plan the area devoted to the public realm is quite extensive, over 6 metres wide in front of the subject site. In my mind it is entirely possible, that with a good design approach the surface treatment of Manor Avenue could be adapted to accommodate development up to a point.

8.2.7. Even though this appeal is not about a new development area or a complete masterplan approach, I turn to the Design Manual for Urban Roads and Streets (DMURS) and its advice about how urban streets should be. In this context, Manor Avenue is a very local street that could be likened to a cul-de-sac serving a small number of residences. This is an ideal location for a shared surface treatment in an environment where the pedestrian and vulnerable road user should be prioritised over a desire to improve motorised traffic flows. I reference figure 4.55: *Carriageway Widths* of DMURS and that a 4.8 metre carriageway width for such a local street with a shared surface carriageway, would be entirely appropriate. I find that the works demanded by condition 4 to be heavy handed and really only engineered to ensure cars and other vehicles are provided with free flow along the laneway. I accept that Manor Avenue cannot remain a leafy laneway and should adapt to provide the best and most appropriate level of public realm. I do not accept that traffic lights, carriageway widening and significant interventions along Wainsfort Grove are really necessary, given the scale of development proposed.

8.2.8. In summary, I find that condition number 4 and by inference condition 1 would not be in the interests of providing the best urban environment and public realm for Manor Avenue and the junction with Wainsfort Grove. Nor would the works as required by condition 4 comply with the objectives contained within DMURS that seek to place the pedestrian and vulnerable road user at the top of the movement hierarchy. Therefore, I consider that it would be appropriate to retain condition 4 but amend its content to incorporate the advice provided by DMURS and amend condition 1 to omit a reference to further information received by the planning authority.

### 8.3. Costs

- 8.3.1. The second issue I see as relevant to this appeal is whether the appellant should shoulder the entire costs for the works to Manor Avenue and junction with Wainsfort Grove. I can see that condition 11 of the grant of permission attaches a section 48 contribution in accordance with the Council's Development Contribution Scheme 2016 – 2020, operative at the time of permission. The terms of the Scheme indicate that the charge payable is split in respect of the different classes of public infrastructure and facilities, Class 1 Roads infrastructure & facilities is highlighted as a significant component of the Contribution Scheme. I consider that the types of works to Manor Avenue and Wainsfort Grove would probably fall within the terms of the scheme. To require the applicant to pay the section 48 Scheme development contribution and carry out the works off the subject site would amount to a double charge on development. If the planning authority believe that specific exceptional costs not covered by the development scheme are incurred by them in respect of public infrastructure and facilities which benefit the proposed development, then a special contribution under section 48(2)(c) of the Planning and Development Act 2000 (as amended), should have been considered, it was not.
- 8.3.2. However, I do think that it is appropriate for the appellant to consider revised design proposals for Manor Avenue and the junction with Wainsfort Grove in consultation and agreement with the planning authority. This may involve some minor revisions to boundary treatments associated with the site and the design approach to the lane and public realm in accordance with DMURS. In my mind this work to a public road should be carried out by the Council as provided for under the South Dublin County Council Development Contribution Scheme.
- 8.3.3. I note that observers have made the point that the works to the laneway, proposed by the applicant (now appealed) and required by the Council, fall outside the appellant's site boundary. In addition, observers, feel that these works should have been re-advertised to allow further stakeholder engagement. I can see that the observers to this appeal also submitted an objection to the planning application and made observations on this appeal. I am satisfied that the decision of the planning authority not to re-advertise once further information was submitted, did not hinder local interest or engagement with the proposal, as evidenced by submissions on the file.

#### **8.4. Other Matters**

- 8.4.1. The Board should note that a similar development proposal at 6 College Drive was permitted by the planning authority, reference number SD20A/0199 refers. This application has also been appealed under the reference number of ABP-308896-20.

#### **8.5. Appropriate Assessment**

- 8.5.1. 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.

#### **9.0 Recommendation**

- 9.1. I recommend that the Board consider the appeal in the context of section 139 of the Planning & Development Act 2000 (as amended). I further recommend that the Board direct the planning authority to amend Condition Number 1 and 4.

#### **10.0 Reasons and Considerations**

Having regard to the nature, extent and design of the development proposed, to the general character and pattern of development in the area and to the provisions of the South Dublin County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity and would not be out of character with the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### **11.0 Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of

development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

4. Revised drawings shall be submitted to the planning authority that show improvements to Manor Avenue and the junction with Wainsfort Grove.

(a) The improvements shall include designs for junctions, sight distances, shared surfaces, footpaths and kerbs if required and all in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets and the National Cycle Manual.

(b) Prior to the commencement of development, the applicant shall submit and agree in writing a public lighting scheme with South Dublin County Council Lighting Department for the length of Manor Avenue.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian and traffic safety, and in order to comply with national policy in this regard.

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Stephen Rhys Thomas  
Senior Planning Inspector

10 May 2021