



An  
Bord  
Pleanála

## Inspector's Report ABP-309588-21.

---

<b>Development</b>	Material change of use of studio workshop to residential use including a wall.
<b>Location</b>	Greenlea Grove, rear of 59 Greenlea Road, adjacent to ESB substation, Terenure, Dublin 6W.
<b>Planning Authority</b>	Dublin City Council South.
<b>Planning Authority Reg. Ref.</b>	3846/20.
<b>Applicant(s)</b>	James Nolan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	James Nolan.
<b>Observer(s)</b>	Seán Leake and Morina Carr Terenure West Residents Gerry O'Brien and Patricia Stenson John Laffrey & Fiona Reilly.
<b>Date of Site Inspection</b>	13 <sup>th</sup> May 2021
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of, but is detached from, No. 59 Greenlea Road, fronting onto Greenlea Grove, in Terenure. Greenlea Grove runs perpendicular to Greenlea Road, a residential street which connects Fortfield Road to the west and Terenure Rd. West to the east. Greenlea Grove is a small residential road which provides access to 7 houses, and a pedestrian access to Lakelands Park to the south. Greenlea Grove is also the primary access to the Terenure College Rugby Football Club grounds which lie to the south west of the subject site.
- 1.2. The site has a stated area of 64m<sup>2</sup> and is bound to the north and east by rear garden of No. 59 Greenlea Road. To the south, the site bounds the Terenure Sports Ground lands and Greenlea Grove lies to the west. There is an ESB substation to the southwest corner of the site. The building on the site rises to two storeys and was constructed following a grant of planning permission for a studio / wood turning workshop by the Board in 2018.
- 1.3. While permission is sought for a change of use, following my site inspection, and noting that I could not gain access to the building or site, it appears to be in residential use already.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for a material change of use of existing studio workshop [previously approved under planning reg. ref. 2972/17] to residential use, consisting of one double bedroom, with bathroom, open plan kitchen / living area and private open space to rear at ground floor level, at Greenlea Grove. The proposed works include a new wall to the Greenlea Grove boundary of the site with associated planting, and the provision of one off-street car-parking space within the site, all at Greenlea Grove (Rear of 59, Greenlea Road, adjacent to ESB substation), Terenure, Dublin 6W.
- 2.2. The application included a number of supporting documents including as follows;
  - Plans, particulars and completed planning application form
  - Cover letter advising of the change in medical circumstances for the applicant leaving him unable to operate the wood-turning lathe described as the

essential part of the use of the building as a wood turning studio. The cover letter submits that the proposed development is in accordance with the policies of the Dublin City Development Plan and accords with the requirements of the development standards contained in Chapter 16 of the CDP.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reasons:

1. Having regard to the inadequate quantity and enclosed nature of the proposed private amenity space, it is considered that the proposed dwelling would fail to provide adequate residential accommodation, contrary to the provisions of Chapter 16 of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
2. The proposed development does not comply with the Dublin City Development Plan 2016 – 2022, Section 16.10.09 and Appendix 5 including the design standards as per 'Parking Cars in Front Gardens' as adequate space to facilitate appropriate car parking, and safe access and egress cannot be achieved. The proposed development would also impact on vehicular access to the ESB substation. The proposed development would endanger public safety by reason of a traffic hazard and obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

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

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

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submissions, planning history and the City Development Plan policies and

objectives. The report also includes a section on Flood Risk and Appropriate Assessment.

The Planning Report notes a number of discrepancies in the stated dimensions of the site area and the building constructed and considers that the proposed development is inadequate in terms of private open space provision. In addition, concerns are raised in relation to proposal which appears to provide a front wall and part of the car parking space within an extended application boundary (from the previously permitted site boundary), extending to the road edge. The proposed car parking area and wall are raised as concerns as manoeuvres required to access the parking space would include movement over the space to the front of the ESB substation. The space provided for service vehicles is insufficient. Having regard to the location of the site, it is not considered that a car free development would be suitable.

The planning report concludes that proposed development is not acceptable. The Planning Officer recommends that permission be refused for the proposed development, for reasons relating to inadequate residential accommodation and traffic hazard.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

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

**Water Services:** No objection subject to compliance with conditions.

**Transport Planning Division:** The report is reflected in the Planning Officers report and raises concerns in terms of the following:

- The ownership of the extended site boundary
- The proposed front wall abutting the carriageway including the parallel car parking space accessing directly onto the carriageway is not considered acceptable on traffic safety grounds.
- The previous permission was for an open car parking space which would be used infrequently.

- There would be conflict between the residential parking and the service parking associated with the ESB substation and the space for service vehicles is insufficient.
- The site is located in an area where a car free development is not considered suitable.

The report recommends that permission be refused for the proposed development on the grounds of endangering public safety by reason of traffic hazard or obstruction of road users.

### 3.2.3. Prescribed Bodies

**None.**

### 3.2.4. Third Party Submissions

There are 6 no. third party objections/submissions noted on the planning authority file. The issues raised are summarised as follows:

- The building was not constructed in accordance with the permitted development and has never been used for the purpose for which permission was granted. The application should be for retention as the building never complied with the permission for its construction.
- Issues raised in terms of the design and character of the building and questions if the building complies with the building regulations.
- Privacy issues and impact on existing residential amenity related to the CCTV system in place on the building which faces homes across the road. Issues also raised in relation to the lighting on the building, including the alarm system installed reflecting into private homes.
- Health and safety impacts given the proximity of the ESB substation.
- Roads and traffic implications associated with the existing use of the busy road. Access to the layby in the road is vital for safe traffic flow, both vehicular and pedestrian.
- Precedent of a grant of permission in terms of constructing a house adjacent to a substation. The Guidebook for Housing Schemes: ESB Networks,

Standards for Electrical Services require that a new substation should not be built within 5m of a house.

- Issues raised in terms of the loss of trees and hedgerows.
- Issues also raised regarding the conduct of the applicant during the construction phase of the development including deliberate concealment of intended use of the building and damage to personal property.

## 4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

**ABP-300345-17 (PA ref: 2972/17):** Permission granted following an appeal to ABP for the erection of a dormered type studio / hobby workshop (non-commercial) for leisure use and the provision of one car parking space which is to be contained within the boundaries of the site.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The subject site located in an area zoned Z1: Sustainable Residential Neighbourhoods and it is the stated objective of this zoning 'to protect, provide and improve residential amenities.

### 5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 6km to the east of the site.

### 5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment

arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised are summarised as follows:

- In terms of discrepancies in the drawings compared to the original permitted development, it is submitted that the site dimensions were clarified following site clearance.
- The proposed dwelling will exceed the development plan standard of 44m<sup>2</sup> for a one bedroomed house at 58m<sup>2</sup>. It is requested that the Board accept that the quality of the dwelling conforms with proper planning and sustainable development.
- With regard to the reason for refusal no 1, the following is submitted:
  - The proposed open space provision comprises 7.41m<sup>2</sup> and has a southerly orientation.
  - The proximity of the dwelling to quality public open space is highlighted, with Bushy Park located 700m, approximately 8minute walk, to the south west.
  - Lakelands Park grounds beside the rugby club is just 200m from the dwelling.
  - The development plan considers a relaxation in the standards for infill development.
  - It is requested that the Board accept a relaxation in the open space standards in the interest of sustainable development given the generous nature of the internal floor area for a one bedroomed dwelling.

- If the proposed development is not acceptable as proposed, it is requested that the Board give consideration to the omission of the proposed forecourt parking space and to allocate this space towards private amenity space.
- Reason for Refusal no. 2:
  - It is requested that the Board permit the car parking as proposed, and if not minded to do so, to accept the development as a car free development.
  - It is proposed to modify the boundary to comprise a railing to allow a view from the site to the street.
  - It is submitted that there is sufficient space to the front to allow pedestrian access to the proposed bin and cycle parking space.
  - Access to the substation is facilitate in the arrangement proposed.
  - The site is located within 800m of Terenure village and is proximate to good quality public transport, significantly reducing reliance on the private car.
  - There is also ample visitor parking on Greenlea Road and the applicants' son resides at No. 84 Greenlea Road.
- In conclusion, the appeal submits that the existing structure can no longer be used for the use permitted and that a residential use is consistent and compatible with the adjoining uses and context. It is requested that the Board accept that the sustainable reuse of the existing structure outweighs the relaxation in standards being requested in terms of private open space provision and car parking. It is further considered that the proposed change of use is unique and will not set a precedent for other developments in the area.

## 6.2. Applicant Response

None.

## 6.3. Planning Authority Response

None.



## 6.4. Observations

6.4.1. There are 4 observations submitted in relation to this first party appeal from the following:

- Seán Leake and Morina Carr
- Terenure West Residents
- Gerry O'Brien and Patricia Stenson
- John Laffrey & Fiona Reilly.

6.4.2. The observations reflect the issues raised during the PAs assessment of the proposed development and are summarised as follows;

- The idealised scenarios suggested by the appellant represent wishful thinking, are not in the gift of the appellant and cannot be guaranteed, compelled or enforced.
- The proposed development does not comply with the CDP in terms of private open space provision and parking.
- The proposals for utility vehicles to park at the substation raise a number of issues.
- Issues in relation to site boundaries have not been clarified to a satisfactory extent and the submitted plans include an area outside the site boundary, comprising part of the public road.
- Parking, roads and traffic issues on the busy Greenlea Grove which provides access to a number of facilities including 7 houses, Terenure Rugby Football Club grounds, Eden Montessori School, coffee kiosk and bottle bank. The road also provides pedestrian access to Bushy Park.
- Proximity of the ESB Substation to the house does not comply with ESB Network requirements.
- Impact of the development on existing residential amenity.
- Concerns raised regarding the precedent a grant of planning permission would set.

- Conflict in the information submitted are highlighted.

All observations support the decision of the PA and request that the Board refuse permission for the proposed change of use.

## 7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Roads & Traffic
3. Other Issues
4. Appropriate Assessment

### 7.1. **Principle of the development**

- 7.1.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. Given that the subject site is located on lands zoned for residential purposes, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The Sustainable Residential Development in Urban Areas (DoEHLG, 2009) guidelines updated the Residential Density Guidelines for Planning Authorities (1999) and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines and in this regard, I have no objection to the proposed development in principle.
- 7.1.2. In terms of compliance with the Dublin City Development Plan, the Board will note the location of the subject site within a suburban residential area which is zoned Z1: Sustainable Residential Neighbourhoods. It is the stated objective of this zoning ‘to protect, provide and improve residential amenities. Residential is a permissible use

within this zoning category. In this regard, I am satisfied that the proposed development is acceptable in principle. However, site specific issues are also required to be considered and I will address these issues further.

7.1.3. Chapter 16 of the CDP deals with Development Standards and section 16.10.2 deals with Residential Quality Standards for houses. This section deals with floor areas, aspect, natural light and ventilation, private open space and separation distances. In this regard, I would note that the stated floor area of the building, which will provide for a 1 bed, two person, house, is between 58m<sup>2</sup> (as noted in the application form) and 65m<sup>2</sup> (as noted in the appeal documentation).

7.1.4. Table 5.1 of the DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities', 2007, provides that a minimum floor area of 44m<sup>2</sup> should be the target. The proposed development exceeds this floor area. In terms of the proposed open space provision, the CDP requires a minimum of 10m<sup>2</sup> per bedspace. The proposed development includes just 7.41m<sup>2</sup> of private open space to the rear of the existing substation. As such, the development does not achieve the minimum requirement.

7.1.5. The Board will note the proposals submitted in the first party appeal with regard to the provision of private open space. It is requested that the Board omit the requirement for car parking and that the area to the front of the building be considered in the context of the private open space provision. I do not consider that this is an acceptable proposal, given that private open space is usually provided by way of private gardens to the rear or side of a house. I would also note that the subject appeal seeks to construct a front boundary wall to create a defensible space and provide car parking. While I will discuss this further below, I do not consider that the development as proposed will result in a residential development which offers adequate residential amenity for future occupants.

7.1.6. Section 16.10.10 deals with Infill development where it is submitted that infill housing should meet the following stated criteria:

- 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.

7.1.7. In this context and having regard to the planning history of the subject site, I am not satisfied that the circumstances of the subject site have been considered in the overall proposed development design and layout. I do not consider that the proposed change of use of the previously permitted workshop / hobby studio, is appropriate in terms of the location of the building, immediately adjacent to an ESB Networks sub-station, as well as two other smaller utility cabinets, will result in an appropriate residential development. I will address roads and traffic issues further below.

## **7.2. Roads & Traffic**

7.2.1. The subject site originally comprised the yard area around the ESB Networks substation which was constructed as part of the wider residential areas in the vicinity. The substation remains in place and the Board will note that there are two further utility cabinets adjacent. I note that there are at least three utility providers who operate from this site and would note that the hard stand area to the front, which also runs to the front of the building the subject of this appeal, is used for parking and access to the cabinets. I would note that access to these cabinets must be maintained.

7.2.2. The Board will note the comments of the Transport Planning Division of Dublin City Council with regard to the proposal, noting that the front boundary of the site appears to now encroach onto the public realm and running parallel to the public road carriageway. The proposal to include a boundary wall in this area is noted as affecting vehicles accessing / egressing the site, including sight lines. The report ultimately concludes that the applicant has not demonstrated that appropriate car parking or safe access and egress for vehicles or pedestrians can be achieved and the PAs decision to refuse stems from these concerns.

7.2.3. I note the first party appeal and the request that the Board consider alternatives for the provision of parking for the development proposed. It is requested that should the Board not be satisfied in terms of the private space provision, that the car parking area to the front be omitted and replaced with additional private open space. Plans

for alternative boundary treatments along this boundary are also submitted. The Board will also note the alternative proposals for parking at the site.

- 7.2.4. Having regard to the information available to me, including the planning history of the site, I am inclined to agree with the Planning Authority. I do not consider that the proposals for the provision of a car parking space as required, are acceptable. I am further not satisfied that the development is acceptable in the context of the proximity and location of the ESB Substation, and if permitted, access to the utility cabinet would be severely restricted. The necessity for technicians to park on the road, rather than to the front of the cabinet when attending at the site, would have potentially significant implications for other road users given the narrow nature of Greenlea Grove and the level of development the street already supports.

### 7.3. **Other Issues**

#### 7.3.1. **Site Boundary Issue**

The Board will note that the pertinent issue arising in the third-party appeal relates to the perceived inaccuracies and lack of clarity surrounding the boundary of the site. I note that this issue is a civil matter. However, I would be satisfied that the provision of Section 34(13) of the Planning & Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that the civil issues is rectified prior to the commencement of development on the site.

#### 7.3.2. **Water Services**

The existing structure appears to be connected to public services.

#### 7.3.1. **Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

#### 7.3.2. **Residential Amenity**

The Board will note the concerns raised by third parties with regard to the impact of the development on existing residential amenities. Given the nature of the appeal

before the Board, and other than the impacts in terms of roads, traffic and parking as discussed above in Section 7.2 of this report, I am generally satisfied that if permitted, the development is unlikely to have additional significant impacts.

### **7.3.3. Proximity of ESB Substation**

The Board will note that third parties have raised concerns in terms of the proximity of the substation to the site and note the ESB guidelines in this regard. I also note that the ESB raised no objection, under the previous application, to the use of the building as a hobby studio / workshop on the basis that access to the substation would be maintained and that the use of the structure would be infrequent, as submitted by the applicant at the time. I would also note that the ESB guidelines indicate that houses should be a minimum of 5m from such substations.

Should the Board be minded to consider a grant of permission in this instance, I would recommend it appropriate to seek the views of the ESB in advance of such a decision, given the current proposal to change the use of the hobby studio / workshop to residential use.

### **7.3.4. Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 6km to the east of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be refused for the proposed development for the following stated reason.

## 9.0 Reasons and Considerations

1. Having regard to the limited size of the site and the scale of development proposed, it is considered that the proposed development would result in an unsatisfactory standard of residential amenity for future occupants of the house and result in overdevelopment of the site by reason of inadequate provision of good quality open space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development does not comply with the Dublin City Development Plan 2016 – 2022 as it relates to the provision of parking and that the development cannot provide a safe access and egress to and from the site. As such, traffic turning movements generated by the proposed development would tend to create serious traffic congestion on Greenlea Grove. It is further considered that the proposals to erect a boundary wall to the front of the building would significantly impact on the access to the ESB Networks Substation. The proposed development would endanger public safety by reason of a traffic hazard and obstruction of road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

---

A. Considine  
Planning Inspector  
24<sup>th</sup> May 2021