



An
Bord
Pleanála

Inspector's Report ABP309750-21

Development	Demolish existing sheds and erect 2 three storey dwellings with access from Georges Avenue, Blackrock, County Dublin
Location	Rear of 68A and 70 Georges Avenue, Blackrock, County Dublin.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	D20A/0989
Applicant(s)	S. Cullen & Cathal and Charles Crimmins
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	S. Cullen, Cathal & Charles Crimmins
Observer(s)	1. Dairine Walsh. 2. Isabell Jeffares
Date of Site Inspection	21 st May 2021.
Inspector	Hugh Mannion

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.0713ha and is located to the east of Georges Avenue, Blackrock, County Dublin. The site is accessed over a laneway which is about 40m long running between 68A and 70 Georges Avenue. The site is part of a larger piece of land (about 0.1ha) and the overall area has two large sheds and two smaller structures. The shed proposed for demolition is in use as storage while the second large shed is in use as a car repair business.
- 1.2. The land uses on Georges Avenue are residential and date generally from the 19th century. The application site backs onto houses that face onto Carysfort Avenue.
- 1.3. **Proposed Development**
- 1.4. The proposed development comprises the demolition of existing industrial shed and the construction of 2 three-storey houses with access via a lane between numbers 68A and 70 Georges Avenue, Blackrock, County Dublin.

2.0 Planning Authority Decision

2.1. Decision – refuse permission

1. The proposed development would overshadow the rear gardens of houses on Carysfort Avenue to the southeast because of the two-storey wall on the boundary which would seriously injure the amenity and depreciate the value of these properties.
2. The proposed development provides inadequate private amenity open space, does not accord with the Development Plan standards set out at section 8.2.8.4 and would therefore seriously injure the amenity and depreciate the value of residential property in the vicinity.
3. The proposed site access and car parking arrangements do not comply with the standards set out at section 8.2.8.4 of the City Development Plan and would, therefore, endanger public safety by reason of traffic hazard.

2.2. **Planning Authority Reports**

2.2.1. Planning Reports

The planner's report recommended refusal as set out in the Manager's Order.

2.2.2. Other Technical Reports

2.2.3. **Transport Planning Section** reported that the proposed development would give rise to pedestrian /vehicular conflict on the access laneway and would thereby endanger public safety by reason of traffic hazard.

2.2.4. **Drainage Section** recommended conditions on any grant of permission.

2.2.5. **Irish Water** reported no objection.

3.0 **Planning History**

3.1. PL06D. 234738 permission to demolish existing buildings and erect 2 houses. Split decision granted one house and refused the second.

3.2. PL06D.234458 permission refused for demolition of existing buildings/sheds and erection of houses.

4.0 **Policy and Context**

4.1. **Development Plan**

The application site is zoned objective A 'to protect and/or improve residential amenity' in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

4.2. **Residential Density RES3.**

4.3. It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- 'Sustainable Residential Development in Urban Areas' (DoEHLG 2009).
- 'Urban Design Manual - A Best Practice Guide' (DoEHLG 2009).
- 'Quality Housing for Sustainable Communities' (DoEHLG 2007).
- 'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013).
- 'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG,2013).

4.4. In relation to backland development the Plan states.

4.5. Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. Residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such. Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites within the existing builtup area, the following standards will apply:

- Generally, be single storey in height to avoid overlooking.
- Adequate vehicular access of a lane width of 3.7m must be provided to the proposed dwelling (3.1m at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- A wider entrance may be required to a backland development to or from a narrow laneway.
- Existing dwelling and proposed dwellings shall have minimum individual private open spaces of 48 sq.m. each - exclusive of parking - for one/two bedroom units or 60 sq.m. plus for three/four or more bedroom units.
- Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- Proposed two storey backland dwellings shall be located not less than 22 metres from the rear facade of the existing dwelling where windows of habitable first floor

rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.

Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.

4.6. Natural Heritage Designations

Not relevant.

4.7. EIA Screening

4.8. Having regard to the location of the site is an area zoned for residential development and the availability of public piped services to serve the proposed development I conclude that no significant environmental impacts will arise and the requirement for the submission of an EIAR may be discounted at a preliminary stage.

5.0 The Appeal

5.1. Grounds of Appeal

- The site backs onto the properties on 43 and 45 Carysfort Road. The boundary is defined by a 2.7m high masonry stone wall there is substantial screen planting on the adjoining sites. There are no ground level views into these adjoining sites from the application site.
- The proposed new houses will be 3.6m from the boundary wall, 5.7m high and 12.36m long. Having regard to these heights and separation distances with existing screening it can be concluded that the proposed development will not negatively impact on the amenity of adjoining property.
- Each house has three bedrooms and meet the Development Plan standard of providing 60m² of private amenity space.

- The principle of development has been established on the site previously and the access laneway is adequate to accommodate the development.
- There are other options that the Board can consider. Option A omits the 3rd floor; this reduces the number of bedrooms to 2. Option B omits the 2nd floor on the eastern elevation of house B which reduces its visual intrusion on the rear gardens of the houses on Carysfort Avenue. Option C reduces the depth of both houses to increase the separation distance off the boundary with 72 Georges Avenue.

5.2. Planning Authority Response

- The grounds of appeal do not raise any issue to alter the view of the planning authority.

5.3. Observations

5.4. Observations were received from Isabelle Jeffares, and Dairine Walsh and others.

- The observers (Dairine Walsh and others) have rights of way over the lane proposed as access for the proposed development. The observers have been denied use of the lane and activities carried on on-site have impacted the residential amenity of adjoining houses.
- The proposed patios will overlook adjoining gardens (specifically 74 Georges Avenue).
- The applicant does not have sufficient legal interest to make the application.
- The amendments proposed are substantial modifications to the application that should not be considered by the Board.
- The proposed development will be overbearing when viewed from and overlook properties on Carysfort Avenue and on Georges Avenue. The amendments submitted at appeal stage do not overcome this problem.
- The proposed development does not meet the private opens space requirements for houses set out in the County Development Plan.

- The access does not comply and is incapable of complying with the standards set out in DMURS.

5.5. Further Responses

None.

6.0 Assessment

- 6.1. The planning issues in this case are Development Plan zoning objective, development standards, overlooking/overshadowing of adjoining property, traffic safety, legal interest in the access lane, the amendments submitted at appeal.
- 6.2. **Development Plan Zoning.**
- 6.3. The site is zoned for the protection of residential amenity in the current Dun Laoghaire Rathdown County Development Plan where residential development is acceptable in principle.
- 6.4. **Development Standards.**
- 6.5. The current application site is about half of a backland block which includes this application site and a car repair business which will remain in operation. The County Development Plan generally supports additional houses in existing built up areas in order to achieve higher density to allow for the better use of existing public services and facilities. The Board has previously granted a single house on this site while omitting a second one (PL06D.234738).
- 6.6. The County Development Plan requires that in the case of backland development a single storey building should be a minimum of 15m from the rear façade of the existing dwelling on site and have a minimum rear garden depth of 7m. In the present case the proposed houses are 2 or 3 storeys and the rear gardens are 4.4m deep.
- 6.7. The plan requires 48m² of private open space for one/two bed houses and 60m² for three bed houses. The applicant states that these are 3 bed houses since one room is not a bedroom but a study and that therefore the application meets the lower threshold of 60m². The point at issue is the availability of private open space to serve the domestic recreational needs of future residents. The rear gardens are very short,

and a significant boundary wall would be required along the southwest boundary to protect the amenity of the rear garden of 72 Georges Avenue. This would render the garden space of little amenity value. There are terraces at first floor level in both houses. These terraces face southwest but are accessible only from bedrooms which reduces their amenity value. Additionally, significant screening would be required at this level and proximity to the site boundary to protect the amenity value of adjoining rear gardens.

6.8. Overlooking/Overshadowing.

6.9. The application site is northeast of the rear gardens of 45 and 43 Carysfort Avenue. There is an existing high masonry wall along this boundary but the two-storey element of house B will raise this wall and contribute to an overbearing impression when viewed from the gardens of the houses on Carysfort Avenue. There are no windows on the first-floor elevations facing into adjoining property and at second floor there is a window on the northwest and southeast elevations serving bathrooms.

6.10. The setback off the southwestern boundary will be 4.4m at first floor and about 8m at second floor. I consider that the setback off the southwest boundary is acceptable.

6.11. Traffic Safety.

6.12. The development plan requires that an access lane to backland development should be a minimum of 3.7m wide. The application drawings show an access lane width of 4.4m. The appeal makes the point that the principle of residential development has been established on the site previously and therefore that access arrangements are not an issue. The planning authority's transport planning section states that the proposed development would give rise to pedestrian/vehicular conflict in the access lane which would endanger public safety by reason of traffic hazard.

6.13. The issue here is that the lane serves a number of uses; the existing car repair business, which is to continue in operation, the uses in the existing storage sheds and as rear access to adjoining houses. I note the applicant's reference to the principle of development being established on site but in that case, it was for a single house.

6.14. The proposed development includes provision for 4 car parking spaces which in connection with the existing uses will lead to significant additional traffic loading on

the lane. I agree with the planning authority's transport section that a combination of vehicular and pedestrian traffic would endanger public safety.

6.15. Amendments at Appeal Stage

6.16. The observations make the point that material amendments should not be made at appeal stage because it prevents proper public participation and that the submitted amendments do not address the concerns set out by the observers.

6.17. I am satisfied that the proposed amendments do not overcome the reasons for refusal set out in the recommendation below.

6.18. Right of Way

6.19. The observations made to the Board make the point that the access lane is a shared right-of-way not in the ownership of the applicant. This point was raised in the submissions to the planning authority. The Development Management Guidelines make the point that where substantial doubt is raised in relation to an applicant's legal interest in an application site a request for further information may be appropriate to resolve the matter. I note the submissions made to the board referencing legal proceedings in relation to this matter.

6.20. Having regard to the material submitted in relation to the application and appeal I am satisfied that the applicant has sufficient legal interest to make a valid application.

6.21. Appropriate Assessment Screening

6.22. Having regard to the nature and scale of the proposed development, the foreseeable emissions therefrom, and nature of the receiving environment, I am satisfied that 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.

7.0 Recommendation

7.1. Having regard to the foregoing I conclude, whereas development of the site for residential purposes would accord with the zoning objective for the site, that the present application comprises overdevelopment of the site with too little regard for the amenity of adjoining residential property. I recommend refusal as set out below.

8.0 Reasons and Considerations

1.	The application site is zoned objective to protect and/or improve residential amenity in the Dun Laoghaire Rathdown County Development Plan 2016-2022. Having to the scale and mass of the proposed development and its location on or close to the site boundaries and the rear gardens of adjoining houses it is considered that the proposed development comprises overdevelopment of a restricted site which would appear as overbearing and intrusive when viewed from adjoining property. Therefore the proposed development would seriously injure the residential amenity of adjoining property, be contrary to the zoning objective for the area set out in the current County Development Plan and be contrary to the proper planning and sustainable development of the area.
2.	The existing access lane serves a commercial use and adjoining residential properties. The proposed development would give rise to additional and conflicting vehicular and pedestrian movements which would endanger public safety by reason of traffic hazard.

Hugh Mannion
Senior Planning Inspector

17th May 2021