



An
Bord
Pleanála

Inspector's Report

ABP-309799-21

Development	Demolition of shed and construction of 2 houses.
Location	Site of approx. 0.321ha at 'Wroxton', Brighton Road, Foxrock, Dublin 18.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0995
Applicant(s)	David and Caitriona Wilkinson
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	David and Caitriona Wilkinson
Observer(s)	None
Date of Site Inspection	31 st May 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.32ha and is accessed from Brighton Road in Foxrock, County Dublin. The subject site currently accommodates a large detached house known as 'Wroxton'. The junction of Brighton Road with Kerry Mount Avenue is opposite Wroxton. There are laneways on both sides of the house and Wroxton is accessed from both an adjacent laneway serving 'Redmires' and from Brighton Road.
- 1.2. Wroxton is a part single storey, part two storey Edwardian house in the Arts and Crafts style. It is not a protected structure. The site is located in the Foxrock Architectural Conservation Area. Wroxton is typical of many sites in the vicinity, in that it is a large house set in substantial mature grounds in a sylvan setting. There are a substantial number of trees throughout the site.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of an existing shed and the construction of 2 No. two/three storey dwellings with stated floor areas of 268 square metres. It is proposed to widen and set back the existing entrance to provide for access to both the proposed dwellings and the existing dwelling.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for 3 No. reasons relating to prematurity on the grounds of public health pending the upgrade of the existing Irish Water foul drainage network, impact on Foxrock ACA arising from the proposals to remove 5 No. category A and B trees, and inefficient use of lands well served by public transport.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report expressed concern in relation to a number of aspects including conservation, loss of trees and overdevelopment of the site. It notes that there is a history of planning refusals associated with traffic issues relating to lands off the private laneway that adjoins the southern boundary. It considers that the amalgamation of lands with other lands adjoining the laneway and the provision of more sensitive infill development at higher residential densities would be more in keeping with the Architectural Conservation Area and the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Transportation Department: Further Information Required.

Drainage: No objection subject to conditions.

Parks Department: Refusal Recommended.

Conservation Department: Concerned regarding overdevelopment of site.

3.3. Prescribed Bodies

Irish Water: Further Information Required.

3.4. Third Party Observations

- 3.4.1. One third party submission was received which noted a discrepancy on the site boundary and the encroachment of a fence on Torry Lane.

4.0 Planning History

PA Reg. Ref. D06A/1783

Permission granted by Planning Authority for extension consisting of a family flat at this location.

PA Reg. Ref. D05B/0028

Permission granted by Planning Authority for an extension to existing dwelling.

Sites in the vicinity:

PA Reg. Ref. D20A/0981/ ABP 309761-21

Permission refused by Planning Authority for infill dwelling at Rockfield, Brighton Road for reasons relating to foul sewerage capacity, traffic safety, insufficient density and piecemeal development. This application is currently on appeal to An Bord Pleanála.

PA Reg. Ref. D20A/0830/ ABP 309383-21

Permission refused by the Planning Authority and by ABP on appeal for the demolition of existing dwelling 'Rusheen' on Westminster Road and the construction of 14 No. units. The reasons for refusal related to prematurity pending the upgrade of sewerage facilities and impact on ACA.

5.0 Policy Context

5.1. Development Plan

5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned A, 'To protect and/ or improve residential amenity'. Residential development is listed within the 'Permitted in Principle' category of this zoning objective.

- The site is located within the Foxrock Architectural Conservation Area (ACA).
- Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development'.

Section 8.2 refers to 'Development Management'.

Section 8.2.3.4 refers to 'Additional Accommodation in Existing Built-up Area'.

- Chapter 6 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to Archaeological and Architectural Heritage. Policy AR12: Architectural Conservation Areas, is relevant.

- Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development'.

Section 8.2.4.9 refers to 'Vehicular Entrance and Hardstanding Areas'.

Section 8.2.11.3 refers to 'Architectural Conservation Areas'.

The following is relevant:

'(i) New Development within an ACA

A sensitive design approach is required for any development proposals in order to respect the established character and urban morphology. Where development is appropriate, contemporary design is encouraged that is complementary and sympathetic to the surrounding context and scale. All planning applications for development within an ACA shall have regard to the following criteria:

All developments within an ACA should be site specific and take account of their context without imitating earlier styles. New developments should normally be 'of their time' and to the high standards of design with contemporary design encouraged. 'Pastiche' design should normally be avoided.

Demolition of structures that contribute to the streetscape character will not normally be permitted. Where demolition is proposed a key consideration is the quality of any replacement structure and whether it enhances/contributes to the ACA.

Where proposals include modifications and/ or alterations or extensions affecting structures within an ACA, these should be designed and sited appropriately and not be detrimental to the character of either the structure or its setting and context within the ACA'.

- Site is located in an area subject to a Section 49 Supplementary Development Contribution Scheme in respect of the Luas Line B1 extension.

5.2. Guidelines

- Architectural Heritage Protection - Guidelines for Planning Authorities (2011, DoAHG)
- 'Design Manual for Urban Roads and Streets' (2013)
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual') (DoEHLG, 2009)
- 'Quality Housing for Sustainable Communities' (DoEHLG, 2007).

5.3. **Natural Heritage Designations**

5.3.1. None relevant.

5.4. **EIA Screening**

5.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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**

The grounds of appeal can be summarised as follows:

- A letter from Irish Water is submitted with the appeal response which considers that both water and wastewater connections are feasible for the 2 standalone houses proposed.
- Most of the trees proposed for removal are towards the rear of the site and not onto Brighton Road, where the sylvan character is most important.
- An example is given of a site c. 400m from the site where permission was given for the demolition of the existing dwelling and its replacement with 4 new dwellings at Amberwell.
- There is a conflict between the report from the Conservation Officer and the Planner as the planner wants more than one house whilst the Conservation Officer only wants one house.
- It is considered that a reasonable balance has been achieved between densifying the site, respecting the sites location within the Foxrock ACA, drawing reference from a comparable development at Amberwell, protecting the majority of the trees on the site and not materially intensifying the Brighton Road access to the site.

- The site fronts onto Brighton Road and does not constitute backland development. The lands to the rear could be developed from the existing vehicular access to the south of the site.
- Details of revised sightlines are submitted.
- The Roads Department of Dun Laoghaire Rathdown do not support the intensification of the use of the existing Brighton Road access to facilitate the two new dwellings and would prefer to use the access along the northern boundary of the site. The applicant does not own the roadway and merely has a right to pass over it and thus does not have any right to carry out any physical works to this laneway either at the existing entrance to Wroxton or at the top of the lane as may be required for sightlines.

6.2. Revised drawings and details were submitted with the appeal including the following:

- Arboricultural Impact Assessment Report together with Tree Constraints Plan and Tree Protection Plan.
- Amended site layout map to reflect the third party issue raised in relation to the boundary along Torry Lane.
- Amended sightlines.

6.3. **Planning Authority Response**

- The Board is referred to the previous planner's report. 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.

6.4. **Observations**

- None.

7.0 Assessment

7.1. The main issues are those raised in the appeal and it is considered that no other substantive issues arise. Appropriate Assessment also need to be addressed. The issues can be dealt with under the following headings:

- Impact on Architectural Conservation Area
- Density
- Traffic Safety
- Drainage
- Appropriate Assessment

7.2. Impact on Architectural Conservation Area

- 7.2.1. The site is located in the Foxrock Architectural Conservation Area. The existing dwelling on the site 'Wroxton' is not a protected structure. It is a large detached part single storey, part two-storey Edwardian house in the Arts and Crafts style. There are a number of protected structures in the immediate vicinity of the site.
- 7.2.2. The overall visual character of the area is sylvan in nature characterised by low density residential development with well enclosed road corridors which are almost rural in character.
- 7.2.3. The report by the Conservation Officer considers that the principle of development is acceptable but the proposed development would constitute overdevelopment and an un-welcomed intensification of the site. It considered that the development proposed would set a poor precedent and would fail to comply with Policy AR12 and Section 8.2.11.3 of the Development Plan.
- 7.2.4. I would concur with this view. The overall visual character of the area is sylvan in nature characterised by low density development. I consider that the proposed development of two substantial houses on a limited part of the site relative to the overall site size would negatively impact on the character of the ACA. Policy AR12 requires that all development proposals protect the special character and special interest of the ACA and that new development is of high quality that is complimentary

and sympathetic to the scale and context. The Character Appraisal for the Foxrock Architectural Conservation Area requires that new developments must not adversely affect the character of the streetscape. In terms of landscape protection, it notes that 'as the essence of what is Foxrock is to a great degree derived from its mature trees, shrubs, and hedgerows, future developments within the area must include provisions to protect and maintain the sylvan character of the area and the sense of enclosure.'

7.2.5. I note that there is a significant belt of trees along the frontage of Wroxton and in the general area where the development is proposed. An Arboricultural Impact Assessment has been submitted which indicates that a total of 9 of the 47 trees on the site will be removed to facilitate the development. Of the nine individual trees to be removed to accommodate the development, these consist of two category A trees, three category B trees, four category C trees and zero category U trees. The appeal makes the point that the majority of trees to be removed are internal to the site and thus the development will have minimal impact on the sylvan character of Brighton Road. Whilst, I agree that for the most part, the existing trees to the front of the site will be retained, I consider that the trees to be removed from the side of the site do contribute to the character of the ACA as they are visible from both the junction with Kerrymount Avenue and from the laneway to the side of the site and currently contribute to the sylvan setting of the site. Furthermore, I consider that the proposed access arrangement which provides for an enlarged opening with individual access for both the proposed two dwellings and the existing house would be uncharacteristic with existing development on Brighton Road and would negatively impact on the character of the ACA.

7.2.6. I note that the Planning Authority encourages high quality and sensitive developments which do not adversely impact on the character of the streetscape. I consider that the design and scale of the proposed dwellings would impact negatively on the character of the ACA. I am not satisfied that an appropriate balance has been struck between the general desirability of allowing infill development and the need to protect the character of the Architectural Conservation Area. As such, I consider that the proposed development would have a detrimental impact on the setting of the Architectural Conservation Area.

7.3. Density

- 7.3.1. Section 8.2.3.1 of the Development Plan encourages higher densities in appropriate locations and Policy RES 3 sets out the Council's policy in relation to residential densities. Policy RES 3 states 'It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing 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 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, and National Climate Change Adaptation Framework- Building Resilience to Climate Change. Policy RES 4 encourages the densification of existing suburbs in order to retain population levels by 'infill' housing.
- 7.3.2. The Development Plan encourages higher density in appropriate locations including areas where a site is located within c. 1km of a rail station. The Ministerial Guidelines- Sustainable Residential Development in Urban Areas- Guidelines for Planning Authorities encourage densities in appropriate locations through more economic use of existing infrastructure and serviced land.
- 7.3.3. There are two key issues in relation to density on this site which may appear to contradict each other but the key consideration is the achievement of an appropriate density for the site.
- 7.3.4. Firstly, the site is located c. 1km from Carrickmines Luas stop. This clearly is a site where government policy encourages higher densities. The second relevant factor is that the site is located in Architectural Conservation Area and the existing dwelling, though not a protected structure, does contribute to the character of the ACA and it is proposed to retain same. This has resulted in the two proposed houses being pushed into a limited area of the site, together with the removal of 5 No. trees of importance and I would consider this to be overdevelopment which has a negative impact on the ACA in this particular case.
- 7.3.5. I note that the appeal refers to another application site c. 650m from the site at Amberwell, where an existing house was demolished to facilitate a new development

of 4 No. houses. I note that the appeal recognises the differences between the sites as follows: 'The Wroxton site is more constrained than the Amberwell site as the existing Amberbell dwelling was demolished thus providing a vacant site on which to design a new scheme. The proposed site has less flexibility as the existing Arts and Crafts style Wroxton has to be retained due to its architectural character and thus the proposed development relates to the side garden of an existing dwelling as opposed to an unconstrained vacant site'. I concur with this point and consider that it is very relevant. Whilst the location of the sites and the proximity to the Luas stop are similar, the layout that can be facilitated by the removal of an existing house is very different to one which is curtailed by the requirement to retain the existing house.

- 7.3.6. The Planning Authority considers that the density is too low having regard to the proximity to the Luas stop, whilst the conservation officer has concerns regarding overdevelopment. The appeal response considers that the backlands can be developed in any case as there are lanes either side of the site and the provision of access through the site to develop backlands would facilitate others rather than the applicant.
- 7.3.7. The appeal by the applicant wishes the Board to consider the site by itself and is unwilling to facilitate the development of backlands by the use of the site. It is stated that if the subject site was required to provide access to backlands, it would '(a) obliterate any development potential of the Wroxton site and thus the applicant's would have no incentive to develop their site and provide access to the rear, (b) would only move the 'problem' further down the lane as egress would be required somewhere along the existing lane, and (c) would not be in accordance with the principle of good urban design whereby the proposed dwellings currently create a strong street frontage onto Brighton Road, with the junction of Kerry Mount Avenue opposite ensuring that new dwellings can be absorbed into their receiving context. The applicant makes the point that the site is not backlands as it has frontage on Brighton Road.
- 7.3.8. Notwithstanding the proximity to good public transport links, I consider that the achievement of a sensitive design is the most critical issue in this case. It is my view that there may be alternative design options for this site whereby the site and/or adjacent sites could be developed at a higher density in a sensitive manner taking

into account the Foxrock ACA, the sylvan setting of the site, the protected structures in the vicinity and the traffic safety considerations in the area.

7.4. Traffic Safety

- 7.4.1. The proposed development includes the widening and enhancement of the existing 'Wroxton' entrance to serve the 2 No. new dwellings and also a revised entrance for the existing dwelling with all three dwellings accessed from Brighton Road.
- 7.4.2. The report from the Transportation Section notes that its policy is to restrict the number of vehicular accesses to a road as it is widely accepted that the accident risk increases proportionate to the number of vehicular entrances. It notes that the existing dwelling has a second access from a laneway to the side and requested further information in relation to access and sightlines. The Planning Authority recommended refusal prior to the issuing of a Further Information Request.
- 7.4.3. Revised drawings have been submitted with the appeal which provide for improved sightlines in order to address this issue. It is stated that the applicant does not own the laneway providing the existing second access to Wroxton and thus does not have the right to carry out any works to the laneway either at the existing entrance to Wroxton or at the top of the laneway as may be required for sightlines.
- 7.4.4. I am satisfied that adequate access has now been provided in terms of traffic safety. There are no yellow lines on the road, there are a limited number of residential access points already and the speed limit in the area is 50km per hour. I consider that the traffic movements from two new houses would not materially impact on traffic safety or congestion in the area.
- 7.4.5. As previously outlined in the section of my report relating to the impact on the Architectural Conservation Area, it is my view that the large combined entrance proposed is uncharacteristic of the ACA and would negatively impact on the character of the ACA. As such, whilst I consider that the proposed access would be acceptable in terms of traffic safety, the access proposed would have a detrimental impact on the ACA.

7.5. Drainage

- 7.5.1. I note that there is a foul drainage capacity constraint in this area and a study is underway to determine the issues. I note that the Planning Report points out that the capacity issues in the network in Foxrock are well documented and refers to two appeals recently refused in the area by An Bord Pleanála - ABP-306733 (1 No. dwelling) and ABP 309383 (13 No. dwellings). I note that there is a current appeal in the immediate vicinity of the site for infill development of one dwelling, (ABP 309761), where a similar issue was raised and included in the reasons for refusal by the Planning Authority.
- 7.5.2. I note that the initial report from Irish Water on the file identifies that there are capacity issues in the area and recommends the submission of a pre-connection enquiry.
- 7.5.3. The appeal notes that the applicant's engineer submitted a pre-connection enquiry to Irish Water and in a response received on the 1st of March 2021 (some 3 days after DLR issued the refusal), they stated that both a water and waste water connection was feasible for the 2 No. dwellings proposed. The appeal considers that this this addresses this issue in full.
- 7.5.4. I have examined the letter and it appears to be a standard letter when there are services in the area. I note that the area is currently under development pressure for infill development such as this and consider that the proposed development is premature until such time as this issue is addressed.
- 7.5.5. Overall, there is no information available as to the extent of works required and more importantly, for the applicant/ Planning Authority, no completion date has been provided. I am not aware of any changes in the area since the previous refusals by the Board. I therefore consider it appropriate that permission be refused due to a deficiency in the foul drainage network and permitting the development may be prejudicial to public health.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and the location of the site in an established, serviced, suitably zoned urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and

it is not considered that the development would be likely to give rise to 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 for the following reasons and considerations.

8.2. Reasons and Considerations

1. The proposed development by reason of the design and scale of the dwellings in a limited part of the site, together with the unsympathetic enlarged site access providing access for both the existing dwelling and the proposed dwellings, and the unacceptable loss of mature trees which are an important feature of the Architectural Conservation Area, it is considered that the proposed development would be detrimental to the visual amenities of the area and would detract from the character of the Foxrock Architectural Conservation Area. As such, it is considered that the proposed development fails to accord with the provisions of Section 8.2.11.3 and Policy AR12 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and would set an undesirable precedent for future development in the area.

2. The proposed development would be premature pending the upgrade of the existing Irish Water foul drainage network, which is currently deficient and for which there is no defined timeframe for the commencement of the necessary improvement works. The connection of the proposed development to the current foul drainage system would therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector

16th June 2021