



An
Bord
Pleanála

Inspector's Report ABP-310390-21

Development	Construction of detached single-storey, two bedroom dwelling house.
Location	Blackbull Cottages, Dublin Road, Drogheda, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	21296
Applicant(s)	James Flannery.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Ronan O' Carroll Giovanni Verrillo
Observer(s)	Ellen Matthews
Date of Site Inspection	16 th of July 2021
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site includes an area of open space at the rear of a row of cottages, known as Blackbull cottages, to the south of Drogheda town. The cottages front onto the Dublin Road and the side of the site, a 2m high block wall, forms part of the Longwood residential estate. The site is separated from the rear of the cottages by a narrow lane which provides vehicular access to the rear of 7 no dwellings which form part of the cottages. The site is mostly overgrown, has a large shed to the rear and a small patio and planted area along the front of the laneway associated with No. 1 Blackbull Cottage.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
- The construction of a detached single-storey (c. 90m²), two-bedroom dwelling house together with boundaries, connection to services and all associated development works.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission subject to 8 no. conditions of which the following are of note:

C 3: Prior to commencement of development, the applicant is to provide full details of all boundary treatments along the perimeter.

C 4: Surface water details to be agreed and no surface water shall be disposed of onto the adjoining property or Right of Way.

C 6: Restriction on ground vibration.

C 7: Restriction on dust emissions.

C 8: Site development works.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission and the issues raised are summarised as follows:

Site History

- Two previous permissions were refused by the Board for substandard development and poor ventilation.
- The revised proposal has taken into consideration the previous concerns in relation to the natural light.
- The design has been amended to provide a greater level of private amenity space and the floor area of the proposed development have been increased from 70m² to 90m².

Design, Scale & Form

- The proposed development (90m²) has 2 bedrooms.
- The size of the house complies with those requirements in Table 4.5 “Space provision & Room Sizes for Typical Dwellings” of Louth County Development Plan 2015-2021.

Residential Amenity

- Given the single storey nature/design of the dwelling the proposal will not cause any overlooking, overshadowing, overbearing or loss of light.

Private Amenity Space

- The amenity space for greenfield/suburban is 60m².
- The private amenity space and patio area to the north equates to 60m².

Traffic and Transportation Considerations.

- There is no carparking provided on the site.
- The absence of car parking is acceptable considering the location close to a public transport nodes and local facilities.

Water and Wastewater Connection

- The proposal will connect to the mains.

3.2.2. Other Technical Reports

Infrastructure Section: Further information was requested in relation to parking, vehicular access, and sightlines.

3.3. Prescribed Bodies

Irish Water (IW): No objection subject to conditions.

3.4. Third Party Observations

Three submissions were received from residents of the cottages along the front of the site, Blackbull Cottages.

The issues raised are similar to those raised in the grounds of appeal and are summarised below:

Impact on Residential Amenity:

- The proposed development will have a direct impact on the level of light available into No 1 Blackbull Cottage.
- Due to the proximity to the kitchen window there will be overshadowing from the roof.
- The area is already overcrowded, and additional structures will have issues with the security of the residents.
- The construction will have a negative impact on the residents in the vicinity.
- The proposal will breach the dividing wall along the Longwood.

All previous applications have either been deemed incomplete or withdrawn.

4.0 Planning History

ABP 304572-19 (Reg Ref 18/799)

Permission refused for the construction of a dwelling house and new entrance and new site boundaries.

1. It is an objective of national policy as set out in the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas” issued by the Department of the Environment, Heritage and Local Government in May 2009 and the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in December 2015 to ensure high quality in the design and layout of places and neighbourhoods and in individual residential units. Having regard to the restricted floor area of the proposed house, the restricted access to private amenity space, the restricted access to natural ventilation, daylight and direct sunlight for the internal living spaces through to the substandard nature of the internal spaces it is considered that the proposed development would seriously injure the residential amenity of future residents of the proposed development. For these reasons, the proposed development would be contrary to the proper planning and sustainable development of the area.

ABP PL15.249149 (Reg Ref 16/686)

Permission was refused for a single storey two bed house with a stated 64m² floor area, accessible from the Longwood access road for the following reason.

1. It is an objective of national policy as set out in the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas” issued by the Department of the Environment, Community and Local Government in May 2009 and the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in December 2015 to ensure high quality in the design and layout of places and neighbourhoods and in individual residential units. Having regard to the restricted floor area of the proposed house, the restricted access to natural daylight and direct sunlight for the proposed living/dining room, the unacceptably poor amenity value of the private open space located to the north of the proposed house it is considered that the proposed development would seriously injure the residential amenity of future residents of the proposed development.”

Permission refused for the construction of a two-storey dwelling house.

5.0 Policy Context

5.1. National Planning Policy

- National Planning Framework, 2040.
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (DEHLG 2009) and the accompanying Urban Design Manual: A Best Practice Guide, (DEHLG 2009).
- Best Practice Guidelines for Delivering Homes Sustaining Communities - Quality Housing for Sustainable Communities (DEHLG, 2007)

5.2. Drogheda Borough Council Development Plan 2011- 2017

The site is located on a site which is zoned as Residential (RE), where it is an objective *“to protect and/ or improve the amenity of developed residential areas”*.

Chapter 6

Residential development standards:

- Internal space: Comply with national standards.
- Separation distances: 22m between opposing first floor windows.
- Car parking: 2 spaces per dwelling.

Private Amenity Space Design Characteristics include:

- Space for planting / garden storage.
- Access to sunlight for at least part of the day.

New Houses (Terraced / Semi-detached / Detached):

- Private amenity space should normally be provided to the rear of houses.

- In certain layouts a combination of private and semi-private spaces may be acceptable.
- An example of such layouts might provide small private areas opening directly onto semiprivate enclosed landscaped space which is dedicated solely for the use of residents.

Houses (suburban)

- 60 m² private amenity space provision.

Waste Storage General Principles

- Adequate provision should be made for the storage, segregation and recycling of refuse and for convenient access for its deposit and collection as detailed in Table 6.10.

5.3. Natural Heritage Designations

The site is located c. 1.1km to the south of the River Boyne & River Blackwater SAC (Site Code: 002299) and c. 1.1km to the south west of the Boyne Estuary SPA (Site Code: 004080).

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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 are submitted by two of the occupants of the Black Bull Cottages to the north of the site. The issues raised are similar in nature and area summarised under the following themes:

Impact on No 1 Blackbull Cottage

- The window of “Bedroom No 1” is a few metres from the kitchen window.
- The proposed development was previously refused as the plans had insufficient daylight in the home.
- The proximity of the dwelling will overshadow and have a negative impact on existing dwelling.
- The proposal will devalue the existing properties.

Gates

- Details around the security at the rear and through the gate are vague.
- The gates are currently closed only allowing access to residents of the cottages.
- These gates open inwards across the applicant’s site.
- The planners report incorrectly notes a proposal to construct a gate at the Roadside for security, this gate is already in place.

Construction Activities

- The laneway along the rear is small and any large machinery will cause damage and there is a lack of space.
- This access is used by the residents and the construction activity will leave them vulnerable.

Boundary Wall

- No agreement has been submitted on the dividing boundary wall

Impact on adjoining property

- The impact on the adjoining workshop/ garage, garden would be great.
- The construction of the dwelling would have an impact on the amenity of the first four houses on the laneway.

Carparking

- There is no provision for car parking.

- All the residents of the dwellings use the associated open space to keep the laneway free.

6.2. Applicant Response

An agent on behalf of the applicant has submitted a response in relation to the grounds of appeal and the issues raised are summarised below:

Impact on privacy

- The appellant has concerned the proposal will impact the privacy kitchen window having regard to the location of “Bedroom no 1”. There are no windows looking into this kitchen.
- The windows have been designed to be away from the any properties.
- In relation to the No 4, and the plot of land directly west, it is pointed out that the dwelling is single-storey and the applicant can erect a fence or boundary at any time.
- A shared boundary wall can be agreed with the applicant and adjoining property owner at any time.

Access to Daylight and Sunlight

- The dwelling is modest with a parapet height of just 2.6m and a pitched roof.
- With the separation distance from No 1 it will be unlikely to have a material impact on access to daylight or sunlight.

No parking provided

- The site is well connected to amenities and services and c. 1.2km to the south east of Drogheda.
- The site is well connected to public transport.
- NPO 27, 54 and 64 of the NPF emphasis the alternatives for car parking and the impact on Climate Change and air quality.
- Sections 4.10.4 and 7.3.9.1 of the CDP identify instances where parking standards can be relaxed including infill and town centre sites.

The Access Road is Controlled by a Security Gate

- The access gate is located at the end of the laneway.
- There are no changes proposed to this access gate.
- The applicant already enjoys a right to access.

Potential Property Damage

- The development will be carried out in line with good construction practices and no risk to the surrounding area.

Character of Historic Cottages

- The dwelling is modest in scale and represents the existing resident units in the vicinity.

6.3. Planning Authority Response

A response was received from the PA to state there was no further comment to that on the planning file.

6.4. Observations

One observation was received from a resident of the cottage directly north of the site, on the opposite site of the rear laneway and the issues raised are summarised below:

- The proposal does not constitute a high- quality infill/ urban intervention.
- The proposal will lead to a reduced amenity for the immediate adjoining properties and the proposed development.
- There are a number of assumptions in relation to the private right of way, this is only available to 7 no houses and there is no public footpath. This path is the rear of the Black Bull Cottages.
- The internal accommodation and layout will cause overlooking and loss of private amenity space to neighbouring gardens.
- It is requested the Board uphold the same decision as ABP-304572-19.

6.5. Further Responses

No further Responses received.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Standard of Accommodation
- Impact on Residential Amenity
- Other
- Appropriate Assessment.

Principle of Development

Introduction

- 7.2. The proposed development includes the construction of a single storey detached dwelling within a small backland site in the suburban area of Drogheda. The site is located in an area zoned as 'RE' Residential Existing where it is an objective in the Drogheda Borough Development Plan *"to protect and/or improve the amenity of developed residential communities"*. Section 6.6.8 of the Drogheda Borough Development Plan 2011-2017 (as extended) Infill / Backland Development defines an infill site as one to the rear or between existing buildings.
- 7.3. There are three refusals for permission on the site for a similar type of development ABP 304572-19 (Reg Ref 18/799), PL15.249149 (Reg Ref 16/684) and Reg Ref 01510229, further detailed below.
- 7.4. The site is located to the rear of an end of terrace cottage and was in use as open space associated with the cottage in the past. Other similar open space areas are located along the rear of another seven cottages and these sites are separated by a private laneway which provides access to the rear of these dwellings. From the submitted documentation and the previous planning reports, in particular PL15.249149 (Reg Ref 16/684), it is noted that the site previously formed part of the rear open space of the Blackbull Cottages although has not done so in a while. The

grounds of appeal states that this rear open space has been removed for 4 of the 7 no cottages. A carparking space associated with No. 1 Blackbull Cottage has been excluded from the site layout plan. I consider the absence of rear amenity space for No 1 Blackbull cottage has been previously established and the Board will note the principle of the principle of the proposed development was not questioned within any previous applications.

Conclusion

- 7.5. Having regard to the residential zoning on the lands, the guidance in the Drogheda Borough Development Plan in relation to infill development and the planning history on the site, the principle of development is acceptable subject to compliance with the separate planning considerations below.

Design and Layout

Planning History

- 7.6. There are three refusals for permission on the site for a similar type of development of which the most recent in 2017 and 2018 where refused on appeal to the Board, as detailed below:
- 7.7. The most recent refusal ABP 304572-19 (Reg Ref 18/799) had a different design and layout of the proposed development. The previous proposal was similar to the current proposal in that the wall along Longwood estate was to be retained although the dwelling was positioned to the rear, south, of the site and included a C shaped dwelling. The Inspector's Report noted the inappropriate location of the open space along the front of the dwelling, inappropriate bedroom and kitchen/ dining area sizes, lack of storage area, light and ventilation and both the dwelling and boundary treatment would have the potential to have a negative impact on the residential amenity of the adjoining open space to the west. The reason for refusal is listed below:

1. It is an objective of national policy as set out in the "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" issued by the Department of the Environment, Heritage and Local Government in May 2009 and the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities" issued by the Department of

the Environment, Community and Local Government in December 2015 to ensure high quality in the design and layout of places and neighbourhoods and in individual residential units. Having regard to the restricted floor area of the proposed house, the restricted access to private amenity space, the restricted access to natural ventilation, daylight and direct sunlight for the internal living spaces through to the substandard nature of the internal spaces it is considered that the proposed development would seriously injure the residential amenity of future residents of the proposed development. For these reasons, the proposed development would be contrary to the proper planning and sustainable development of the area.

- 7.8. This reason for refusal was the same as the previous refused permission, ABP PL15.249149 (Reg Ref 16/684). In this instance, the dwelling (c. 70m²) fronted out onto Longwood estate with a separate entrance for the driveway and increased the size of the house, a garden area of c. 44m² along the laneway and a carpark space, possible for No. 1 Blackbull cottage, located beside the laneway.
- 7.9. The amendments to the proposed development as previously refused in 2018 include a change in the location of the building to the front of the site, north, location of open space to the rear, south and increase in the size of the dwelling size (c.90m²).
- 7.10. Table 4.5 of the Louth County Development Plan 2015-2021 sets out guidance for space provision and room sizes in new houses. A two-bed single storey house should be 60m². Internal space requirements are provided in Appendix 3 with the CDP noted the minimum as set down by the national sustainable communities and design standards for new apartments. In addition, Section 6.7.7 of the Drogheda Development Plan states that it will have regard to national policy in relation to floor areas in residential developments. The Sustainable Urban Housing: Design Standards for new apartments (2020) require 73m² for new two-bedroom apartment.
- 7.11. The stated floor area of this new house is c. 90m² which is in compliance with Appendix 1 of the apartment guidelines. The minimum storage area for a two-bedroom unit is 5m² although the proposed development provides 3.06m². The two no bedrooms provide a floorspace of 11.7m² each. In relation to the living/ dining space 32.76m² has been provided, whereas a maximum of 30m² is required. Having

regard to the excess of space in the living area, I consider an additional 2m² for storage space could be reasonably included as a condition on any grant of permission

- 7.12. In general, I consider the issues raised in the previous refusal in relation to internal accommodation have been adequately addressed and the proposed dwelling meets the standards necessary to comply with the national standards.
- 7.13. In relation to the overall design of the dwelling the Board will note the reason for refusal on the previous applications raised the quality of design as stipulated in the national guidance. Section 5.9 of the Sustainable Residential Developments in Urban Areas (SRDUA) required the design approach to infill development to be based on the “ *a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.*” In addition, the Drogheda development plan provides guidance for infill development in the requires any infill development to respect the surrounding area in terms of design, scale, height and building line should be in keeping with the existing development.
- 7.14. The site is surrounded by a range of dwelling styles, with traditional single storey cottages to the north and suburban style two storey dwellings to the east and south. The area to the west includes private amenity space associated with those dwellings to the north. Due to the range of styles the single storey design of the dwelling is acceptable.
- 7.15. The orientation of the dwelling is directed west towards the 2m high dwelling along the Longwood estate. The main access door is located along this elevation facing onto the 2m high boundary. A separation distance of c. 1m is provided for along the side of the dwelling to facilitate the main access into the dwelling. The elevation facing onto the private laneway to the north towards the existing dwellings includes a blank elevation. The overall design response to the site is poor and of a low quality and does not respect the surrounding area. I do not consider the overall design of the dwelling complies with the requirements of national or local policy in relation to infill and this amended design has not adequately addressed the concerns raised in the previous refusals.

Impact on Residential Amenity

- 7.16. The grounds of appeal are submitted from those residents of the properties along the north of the site, Blackbull Cottages. No. 1 Blackbull cottage is located on the opposite side of the private laneway, c. 3.5 m from the side elevation of the proposed dwelling. As stated above, the national and local guidance for infill development requires that new development should not be detrimental to the local existing residential amenities in the area. The individual aspects raised in the grounds of appeal are separately addressed below.

Construction Activities

- 7.17. The impact of the construction activities on the residential amenity and the existing shared laneway was raised in the grounds of appeal. The response by the applicant states that good construction practices will be followed. The proposal relates to the construction of one dwelling in an urban area. Whilst there will be some disruption to the adjoining properties during the day by reasons of increased noises etc relating to normal construction activities I consider these can be reasonably addressed by way of standard condition restricting the timing of activities. Having regard to the scale the proposal I do not consider there would be any significant negative impact on the residential amenity of the adjoining properties from the construction activities.

Overlooking

- 7.18. The potential for overlooking from the bedrooms into the rear of No 1 Blackbull has been raised. The applicant's response to the grounds of appeal notes the absence of any windows on the western elevation of the proposed dwelling and the distance from No.1 and considered there will be no direct overlooking. It was also stated that current pedestrian movement along the rear laneway would lead to more overlooking into No. 1 Blackbull cottage than the proposed development. I note the absence of any windows directly facing No. 1 and whilst the window for bedroom No.2 faces north, it is not orientated towards any windows. In this regard, I do not consider there will be any negative impact into No. 1 from overlooking.
- 7.19. In relation to the impact on the private amenity space of No. 2, I note the orientation of the windows for the living area of the proposed development along the west, directly overlooking this space. A post and wire fence runs along the western boundary and no boundary treatment is proposed. The response from the applicant

states that the adjoining property owner can erect a boundary wall under exempt development right, although should the Board consider necessary, they would accept a condition relating to this boundary treatment. Condition No 3 of the permission requires the submission of all boundary treatment for the written agreement of the PA. I do not consider the imposition of such a condition is a reasonable request as the impact of overshadowing onto this private amenity space would need further consideration. In this regard, I consider the proposed development would have a significant negative impact on the private amenity space of the adjoining property by way of overlooking.

Overshadowing

- 7.20. The site is located to the south of the existing dwellings along Blackbull cottage and separated by a laneway, c.3.5m in width. The height of the gable closest to the rear of No. 1 is c. 4.5m. No shadow projection drawings have been submitted with the application although having regard to the height of the dwelling and distance from the rear property of No. 1 I consider there is a potential for shadow projection into the rear of the dwelling during mid-day. Whilst I consider a certain degree of overshadowing is expected within an urban setting such as this, in the absence of any projection drawings I can not conclude that this impact would not be significant.

Conclusion

- 7.21. Having regard to the orientation of the windows along the west of the site, the absence of any boundary treatment and the distance and orientation of the dwelling from the rear of No. 1 Blackbull Cottage I consider the proposed development would have a significant negative impact on the residential amenity of the occupants in the adjoining properties.

Other

- 7.22. Access to the site is via a private gated access. The grounds of appeal have raised concern in relation to the public access to the gates and rear laneway, adjoining Blackbull Cottages. The proposed development does not include any proposal to amend the current access into the site. This aside, the Board will note Section 34 of the Planning Act, 2000, as amended, states that a person is not be entitled solely by reason of a permission to carry out any development by reason of a permission.

Appropriate Assessment

- 7.23. Having regard to the modest nature and scale of the proposed development and its location within a long established built up urban area which is connected to existing public services, which includes public mains water and wastewater, and the separation distance to the nearest sensitive location and lack hydrological pathways, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be **refused** for the reasons and considerations set out below.

9.0 Reasons and Considerations

It is an objective of national policy as set out in the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas” issued by the Department of the Environment, Community and Local Government in May 2009 and the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in December 2015 to ensure high quality in the design and layout of places and neighbourhoods and in individual residential units.

Having regard to the design of the dwelling, limited area associated with the site and its relationship to adjoining property, it is considered that the proposed development represents inappropriate backland development, would result in a substandard residential unit and would seriously injure the amenities of adjoining residential property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Hamilton
Senior Planning Inspector

19th of July 2021