



An  
Bord  
Pleanála

## Inspector's Report ABP-310548-21.

<b>Development</b>	Detached single storey dwellinghouse, new vehicular access to existing house and relocation of existing vehicular access for proposed house and all site works.
<b>Location</b>	Rear of 1 Rafters Road, Drimnagh, Dublin 12.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	1977/20.
<b>Applicant</b>	Rafters Electrical Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Charles Cullen and John Cullen.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	2 August 2021.
<b>Inspector</b>	Mairead Kenny.

## **1.0 Site Location and Description**

- 1.1. The site is just off the main Crumlin Road on a separate road known as Rafter's Road. It comprises a large proportion of the rear garden of a semi-detached cottage in an inner suburban location in south-west Dublin city. The original plots of the semi-detached cottages have been subdivided to provide for 5 no. two-storey terraced dwellinghouses in the original plot of no 1 at the side of no. 2 a detached house has been constructed. The house at no. 1 has been extended to the rear. At the time of inspection, I obtained a view of the site from the rear garden of no. 2 using a step ladder. The rear garden contains a number of mature trees, including very large fruit trees and (possibly) an arbutus tree.
- 1.2. At the front of the site is a small green space which separates the residential road from the main distributor road. The stated site area is given as 890m<sup>2</sup>.
- 1.3. Photographs which were taken by me at the time of my inspection are attached.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the development of a single storey dwellinghouse, for a new vehicular entrance to the existing house and for modifications to the vehicular entrance to the site at 1 Rafter's Road. The proposed house is to be positioned to the rear of the existing house and is of flat roof design with a stated floor area of 169.95m<sup>2</sup>.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to conditions including:

- agreement on external finishes and colours and any render to be in a self-finished and not to require painting (condition 3)
- details of boundary treatments between existing and proposed dwellings to be agreed prior to commencement of development and to be installed prior to occupation of the new dwelling (condition 4)

- restriction on rights to exempted development (condition11).

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The significant points in the original report are:

- The Board's previous decision cited the access, proximity and limited rear amenity space for the retained dwelling.
- In addition, the short garden depth and fencing would result in reduced outlook to the kitchen and rear bedroom of the existing house.
- Further information is required in respect of this issue.
- Compared with the previous proposal and notwithstanding increased depth on western boundary and reduced separation from neighbouring boundaries the single storey house proposed avoids an overly dominant relationship to the existing and neighbouring dwellings.
- Given the single-storey form and flat roof it is not considered that a material impact in terms of overbearing, privacy or reduce daylight and sunlight would impact neighbouring occupiers.
- Issues of noise and disturbance from the extended access and parking need to be addressed.
- A 3 m vehicular entrance width has been recommended.
- Further information is required in respect of noise and disturbance, depth of rear garden to be retained and outlook from that house and width of vehicular entrance.

The significant points in the final report are:

- The Noise Assessment Report submitted includes a detailed assessment of the impact of noise during construction and operation and demonstrates that the noise levels associated with vehicular movements will fall within WHO and BS 8233 noise limits.

- The depth of the rear garden has been increased to 6.3 m resulting in a garden area of 51.48 m<sup>2</sup>. The revised open space and the outlook from the existing house are considered acceptable.
- The vehicular entrance has been reduced to 3 m in width.
- The development will not detract from visual residential amenities and accords with the development plan. Permission is recommended.

### 3.2.2. Other Technical Reports

Drainage Division – no objection subject to conditions.

Transport Planning Division – a maximum of 3 m width of vehicular entrance is recommended. Other standard conditions apply.

### 3.3. Prescribed Bodies

No submissions received.

### 3.4. Third Party Observations

John Cullen 2 Rafter's Cottage objects to the development on the grounds of impact of the development on the character of his house, natural light, invasion of privacy and security, traffic congestion, noise, sunlight into the garden and proximity to boundary wall. Mr Cullen also sets out concerns in relation to compliance with Building Regulations and comments on the existing extension. There are sufficient houses in the area and the cul-de-sac is already overcrowded.

Charles Cullen 2A Rafters Road objects to the development which he describes as being crammed into a very restricted area in the back garden of a house without consideration for right of privacy of neighbours. The application is similar to the previous applications which were refused. The dwelling house which would be the full width of the back garden and would have an overbearing and intrusive effect on the cottages. The dwellinghouse is of excessive size and may be rented to a group of people and the amount of parking would not be adequate. The development is contrary to the backland development policy of the development plan and all the reasons for refusal previously stated still apply.

## 4.0 Planning History

- 4.1. Under ABP-305635-19 the Board overturned the decision of the planning authority under reg. ref. 3627/19 to grant permission for development comprising 2 no. semi-detached 2-bedroom bungalows with attic bedroom and rooflights to the front and all associated site works.
- 4.2. The reason for refusal may be summarised as follows:
- Haphazard and piecemeal development which is substandard and out of character with the established pattern and layout would result in significant adverse impact on amenities and value of the existing dwelling, the adjoining dwellings and the attainable residential amenity standards by reason of the noise and disturbance and intrusiveness on privacy due to the proposal for an access road to the side and rear of an existing dwelling, the parking and proximity to site boundaries, poor amenity potential for the internal main living accommodation and rear private open space for the existing and proposed dwellings due to poor configuration and outlook and lack of access to sunlight.
  - Contravention of section 16.10.8 of the development plan and serious injury to residential amenities of existing and adjoining properties and attainable residential amenities for future occupants, seriously injurious to the visual amenities and character of the development in the area and contrary to the proper planning and sustainable development of the area.
- 4.3. Under Reg. Ref. 2665/19 permission was refused by the planning authority for development of 2 no. 2 ½ storey dwellinghouses. There was no appeal. The reasons for refusal related to piecemeal development and undesirable precedent and secondly to the character of the area and the scale, size and proximity of the proposed development to site boundaries and the consequent impact on residential amenities. The planner's report concluded also that the proposed development would represent piecemeal development of the land and inhibit development of a larger backland area contrary to section 16.10.8.

## **5.0 Policy Context**

### **5.1. Development Plan**

The site is located in an area zoned Z1 the objective of which is 'to protect, provide and improve residential amenities'.

Section 16.10.8 relates to backland development. The provision of comprehensive backland development where the opportunity exists will be facilitated. The development of individual backland sites can conflict with the established pattern and character of the area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. By blocking access, it can constitute piecemeal development and inhibit development of a larger backland area. Applications for backland development will be considered on their own merits.

Section 16.10.2 sets out residential quality standards relating to floorspace, aspect and natural light and private open space.

### **5.2. Natural Heritage Designations**

The nearest European sites are South Dublin Bay SAC and South Dublin Bay SPA.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The main points of the appeal are as follows:

- The development would have a detrimental effect on the cottages which were built in the 1900s.
- It would encroach onto the two cottages and look completely out of context.
- The proposed development would invade the privacy of the existing house at the site and of the house at 2A due to the angle of the land and will come less than a metre from our boundary walls.

- The bungalow will have an overbearing effect on our properties. The development is unnecessary and is similar to that previously refused.
- Due to its scale, it will have a high occupancy and may be rented and in future may be subdivided into two bungalows.
- Noise and disturbance from the house are a concern. The survey undertaken does not address the reality and the effect on our well-being. The importance of our rear garden and nature and peace and tranquillity is emphasised.
- The need for housing does not justify cramming another house into the back garden of this property. Five houses have already been developed from this site.

## 6.2. Applicant Response

The response of the applicant includes the following comments:

- The proposed development is wholly consistent with the zoning objective for the site including by reason of proximity to services on foot and by public transport.
- A summary of the changes made since the refusal of the Board for a 1 ½ storey residential development is set out in section 1.5. The design of the building has been significantly altered to address concerns raised.
- The proposed development will not give rise to a detrimental impact on the surrounding area including adjacent dwellinghouses. The relationship between the proposed and existing houses is not unusual in an urban context.
- The proposed development being single-storey, flat roofed and not of overbearing appearance would not reduce daylight sunlight, give rise to an unacceptable level of adverse noise impacts or an unacceptable level of impact on residential amenity.
- The development plan policy provides for back land development. The house will be subservient in scale to the existing house preventing an overly dominant relationship. It aligns with the surrounding evolving urban environment. Due to the reduced height and separation distances, it is

compatible with neighbouring development. It does not block access to further developable land.

- It is refuted that the proposed development is similar to previous schemes.

### **6.3. Planning Authority Response**

None.

### **6.4. Observations**

None.

### **6.5. Further Responses**

None.

## **7.0 Assessment**

7.1. I consider that the main issues in this case may be considered under the following headings:

- Principle of development.
- Residential and visual amenity.
- Backland development policy.
- Vehicular access.
- Appropriate Assessment.

### **7.2. Principle of development**

7.3. The appellant's concerns include that the development is needless and unnecessary and there is an objection to the provision of an additional house in principle. The proposed dwelling house is stated to alter the character of the area and to be unacceptable including in the context of the planning history and the provision of 5 no. two-storey houses already at the site of the original cottage.



- 7.4. I refer to the development plan provisions for the area and note that there are no governing conservation objectives related to the site or to the adjoining properties. In addition, the development plan zoning objective Z1 is to protect, provide and improve residential amenities. With respect to the provision of new development in this area there is support in principle for the provision of additional housing. The fact that the plot has already been subdivided to provide additional housing does not undermine this zoning objective and is not relevant.
- 7.5. The requirement to meet the relevant development management standards applies and is considered below in terms of residential and visual amenity issues.
- 7.6. I refer the Board to the fact that the previous application was for 2no. dwellinghouses with a roof ridge height of 6063mm. A useful summary is provided in the applicant's response to the appeal in the form of table 1.0. Of the alterations made I consider that the height change is the most significant. The proposed development, while similar in terms of its location, orientation and site coverage is for one dwellinghouse only which is of parapet height of 3685mm. In addition, the current proposal incorporates different arrangements for vehicular access and parking. I consider that the reduction in the proposed development to a single flat roofed dwellinghouse is a material change compared with the proposed development considered by the Board under ABP – 305658 – 19.
- 7.7. The appellant effectively argues that there is no change in circumstances since the previous decision of the Board to refuse permission. The applicant considers that the changes undertaken are significant and that they address the reason for refusal. A detailed summary of the applicant and appellants positions has been provided above.
- 7.8. I have carefully examined the Board's decision and I consider that it raises a number of issues. I next identify those issues and respond in terms of their relevance to the proposed development.

(1) The previous development was considered to be haphazard and piecemeal and out of character with the established pattern and layout of development in the area. I consider that while the character of the proposed development is significantly altered in the current proposal, the proposed development remains out of character with the established pattern and layout

of development in the area and can be described as haphazard and piecemeal. Notwithstanding the applicant's response on this issue, which is relevant to the city overall, there are no similar developments in this area and in particular none on the immediately adjacent lands.

(2) The previous development was considered to be substandard and to make poor provision for residential amenity for future occupants by reason of open space, internal space, poor configuration and lack of access to sunlight. I consider that the proposed development is materially different and none of these matters are relevant in this case.

(3) The previous development was described as having a significant adverse impact on the amenities and value of the existing dwelling and the adjoining dwellings by reason of noise and disturbance and intrusiveness attributable to the access road and parking and the proximity to site boundaries. To address this issue the planning authority requested, and the applicant submitted a noise survey report which the appellant submits does not actually address the reality and the impact on residential amenities. I am in agreement with the applicant's position that there would be no significant adverse noise impacts. Notwithstanding that the use of the access road to avail of parking would not give rise to significant noise levels *per se*, the proposed dwelling house by reason of its location could be deemed to intrude more on the amenities of the appellants houses including by reason of light pollution.

(4) Although the proposed development is reduced from 2 no. houses to 1 no. houses, I do not consider that the issues raised in the Board's previous decision can be overcome. It appears to me that the decision reflects a fundamental opposition to development of this site.

(5) The Board's previous decision referenced proximity to site boundaries as part of the concern with respect to intrusiveness and impact on residential amenities. I consider that this is marginally increased in the current proposal. I note that neither the current nor the previous proposal was sufficiently set back from the site boundaries to facilitate any screen planting. The development will involve removal of mature trees which are very visible from both houses. In the case of no. 2A the introduction of the new dwellinghouse

would add to the significant change in visual amenity. I consider that the change resulting is significant and negative and not capable of mitigation. In my opinion it is reasonable to conclude that the proposed development detracts from the visual and residential amenities of the area.

7.9. To conclude, I consider that some of the issues set out in the previous decision of the Board are overcome in this case. I submit that by reason of the reduction in the number of houses from 2 no. to a single house and the significant alteration in the design proposed, the proposed development is materially altered. However, my conclusion is that the decision of the Board under the previous appeal includes a principled opposition to development of the site, reflects an interpretation of the backland policy and concludes that it was contravened. In my opinion the proposed development detracts from the visual and residential amenities of the area and thereby contravenes the development plan policy related to backland sites. I further address a number of related issues below in support of the above.

#### **7.10. Residential and visual amenity**

7.11. The proposed development comprises a flat roofed 169.95m<sup>2</sup> with a small central courtyard and a rear garden of stated area of 132 m<sup>2</sup>. The proposed development would comply with the national and development plan guidance with respect to the floorspace and light requirements and would meet the needs of future occupants.

7.12. The reserved private open space to serve the existing house includes a small rear garden area of 51.48m<sup>2</sup> as well as a small front garden and a parking space. I consider that the layout proposed adequately protects the amenity requirements for the existing house.

7.13. Due to the flat roof design and the position of the proposed house relative to other houses in the vicinity I do not consider that it can be concluded that the proposed development would give rise to overlooking or significant overshadowing.

7.14. I am of the opinion that the proposed development which would exceed the shared boundary wall by about 1.7m and would be 1m from the shared walls would significantly adversely impact on the amenities of the adjacent dwellinghouses particularly of no. 2A. The development would adversely impact on the residential

amenities of the area by reason of visual intrusion and would be considered to constitute an overbearing form of development in this suburban context.

7.15. I consider that the condition attached by the planning authority relating to boundary walls is appropriately detailed. However, in the event of a grant of permission I would recommend in addition that the finished floor level, which is not specified in the drawings also be subject of agreement.

7.16. I note that the appellant references the tenure of the dwelling house stating that it is proposed to be rented. I do not consider that this should influence the Board's decision.

7.17. The appellant expresses concern that the house proposed is very large and extravagant and that it may at some stage be subdivided into two bungalows. In the event that this was proposed a further planning permission would first be required.

7.18. **Backland development**

7.19. I now consider the proposed development in terms of the development plan policy relating to backland development. It is explicitly stated that the planning authority will allow for the provision of comprehensive backland development where opportunity exists. However, it is also noted that the development of individual backland sites can conflict with the established pattern and character causing loss of amenity and that by blocking access it can constitute piecemeal development and inhibit the development of a larger backland area.

7.20. Following from the discussion above and having inspected the site and surrounding area I conclude that the proposed development is in conflict with the established pattern and character of the area. I also consider that there are reasonable grounds to conclude that the development of this site by reason of its relationship with the adjacent houses would give rise to loss of residential amenity.

7.21. In terms of whether a grant of permission would inhibit the development of a larger back land area, I do not consider that this is relevant consideration in this case. The subject site is reasonably large as are a number of the adjoining plots. The site has already been subdivided to provide for 5no. terraced dwellinghouses facing onto the public road. In the applicant's submissions no indication has been presented as to how the design and layout proposed in this case could be compatible with the future

development of adjoining lands. The proposed development certainly does not open up the possibility of a more comprehensive development of other adjacent lands. However, I am not convinced that there is significant potential for any comprehensive development.

7.22. While the development plan policy favours comprehensive redevelopment it does state that each case should be considered on its merits. Having regard to my conclusion that the proposed development would negatively impact amenities of the area it follows that it does not comply with the relevant development plan policies as set down in section 16.10.8.

7.23. In conclusion therefore I recommend that permission should be refused in this case for reason of the haphazard and piecemeal nature of the development which is out of character with the established pattern and layout in the area and which would result in significant adverse impact on the amenities of the adjacent dwellinghouses by reason of the scale of the house, its proximity to site boundaries and position to the rear of the established building line.

#### **7.24. Vehicular access**

7.25. In its decision under ABP-305658 – 19 the Board referenced the access road to the side and rear of the existing building only in the context of implications for residential amenity. No traffic or safety issues were referenced. The proposed development incorporates a revision to the vehicle access to the existing house to provide a 3 m wide vehicular entrance to serve the cottage and with provision for parking for 1 no. car in the front garden. The subject site would be served with a 3 m wide access road with a gated entrance which is set back from the road frontage. I consider that there are no safety issues with the proposed arrangement and that there would be adequate parking within the curtilage of both sites. I have no objection to the development on the basis of roads and traffic issues.

7.26. A pedestrian entrance is also proposed. I note that concern was expressed with respect to activity associated with this new entrance. I consider that such concerns are not reasonable, and I reject the idea that there would be any adverse effects from the introduction of a gate to the front of the existing house.

## **7.27. Appropriate Assessment**

7.28. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and distance to the nearest European sites, 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.

## **8.0 Recommendation**

8.1. I recommend that permission be refused for the reasons and considerations below.

## **9.0 Reasons and Considerations**

It is considered by reason of its scale and proximity to site boundaries that the proposed dwelling house located to the rear of a single-storey cottage constitutes haphazard and piecemeal development which is out of character with the established pattern and layout of development in the area and which would result in significant adverse impact on the visual and residential amenities of the adjoining properties. The proposed development would therefore be contrary to the policy for such development set down in section 16.10.8 of the Dublin City Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.

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Mairead Kenny  
Senior Planning Inspector

3 August 2021