



An
Bord
Pleanála

Inspector's Report ABP 311086-21

Development	Demolition of existing warehouse and construct 8 no. dwellings and associated works.
Location	5 Walkinstown Road comprising of an industrial building, yards and grounds to the rear of houses on Walkinstown Road and Thomas Moore Road, Dublin 12.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2650/21
Applicant	Canmar Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	1. Brian Cullen 2. Peter Byrne
Observer	Marian Byrne
Date of Site Inspection	01/04/22
Inspector	Pauline Fitzpatrick

1.0 Introduction

The site formed part of a larger site on which a mixed use development was proposed. It was subject of an appeal under ref. ABP 307186-20 (4364/19). A split decision issued where permission was granted for Blocks 1 to 3 on the section of the site to the north with Blocks 4 – 6 proposed on the subject site ('southern leg' of the site) refused.

2.0 Site Location and Description

The site, which has a stated area of 0.24 hectares, is roughly rectangular in shape the body of which is bounded by the rear gardens of dwellings which front onto Walkinstown Road to the west/north-west and Thomas Moore Road to the south/south-east. It is accessed via a laneway from Walkinstown Road close to its junction with Balfe Road and Long Mile Road. The laneway provides access to the rear of properties fronting onto Walkinstown Road. There is a warehouse building in the south-western most section of the site served by a gated entrance at the northern end of the lane. Mature trees are located along the eastern boundary.

The site is relatively narrow with the widest point being in the south-western most section at c.28.5 metres.

3.0 Proposed Development

The application was lodged with the planning authority on the 23/04/21 with further plans and details submitted 28/06/21 following a request for further information dated 21/06/21.

As amended the proposal entails:

- Demolition of warehouse and associated outbuildings
- Construction of 8 no. dwellings in 2 no. blocks comprising
 - 2 no. 2 storey 2 bedroom semi-detached units
 - 6 no. 3 storey 4 bedroom terraced units.

The application is accompanied by:

- Covering planning report
- Design Statement
- Visualisations
- Screening Statement for AA

4.0 **Planning Authority Decision**

4.1. **Decision**

Grant permission for the above described development subject to 18 conditions setting out standard planning and engineering requirements. Condition 3 requires a financial contribution in lieu of public open space.

4.2. **Planning Authority Reports**

4.2.1. Planning Reports

The 1st Planner's report dated 21/06/21 notes:

- The residential scheme would be preferable to the current industrial use on the site and would be a planning gain providing much needed family sized housing units.
- The blocks would be similar to the scale and pattern of development to the east and west of the site along Walkinstown Road and Thomas Moore Road.
- The amount of development has been reduced. The 6 no. terraced houses look onto a communal open space compared to the previous scheme where the majority of units were fronting onto car parking spaces. This is an improvement and will provide a better outlook for the dwellings and will also act as a buffer between the rear gardens/public laneway of Walkinstown Avenue and the front of the new terrace of 6 no. houses.
- In terms of design the applicant is limited in what configuration can be achieved on the site.

- In terms of overlooking the houses are set back a sufficient distance from opposing windows on properties on Thomas Moore Road. The houses have adequate rear gardens.
- No significant overshadowing of gardens will arise.
- A contribution in lieu of public open space recommended.

A request for further information recommended in line with the Roads Planning Division report (summarised below).

The 2nd report dated 23/07/21 following further information recommends a grant of permission subject to conditions.

4.2.2. Other Technical Reports

Engineering Department Drainage Division has no objection subject to conditions.

Roads Planning Division notes that the submitted auto track drawings for refuse and fire tender vehicles do not clearly demonstrate access along the laneway in front of block 5 due to insufficient detailing of the existing laneway and adjacent properties. Refuse trucks will be required to reverse to access the communal storage for block 5. Access to the said communal storage for residents, in particular block 4, is not considered acceptable. The car parking provision is acceptable. A review of the bicycle parking is required. Further information recommended.

4.3. Prescribed Bodies

None

4.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for its information. The issues raised are comparable to those set out in the 3rd party appeals and observation summarised in section 6 below.

5.0 Planning History

ABP-307186-20 (4364/19) – split decision:-

Permission granted for development on the northern part of the overall site comprising of demolition of existing buildings, construction of a mixed use commercial and residential development in 3 no. blocks accommodating 2 no. commercial units, a communal meeting space and 56 no. residential units, vehicular access from Walkinstown Road and realignment/widening of existing public laneway off Walkinstown Road, internal access road and associated car parking spaces and ancillary works.

Permission refused for 3 no. blocks comprising 8 no. apartments and 6 no. townhouses on the section of the site that corresponds with the current appeal site. The two reasons can be summarised as follows:

1. Due to the narrow configuration, back land and isolated nature of the area of the site, the predominance of end-on parking to the front, poor outlook from the dwelling units to the front and rear towards boundaries and the rear of existing residential properties and lack of linkage or visual connectivity with the community amenity space serving the development, the proposal would seriously injure the residential amenities of the future occupants.
2. Having regard to the proposed continuous end on parking provision directly off the access road serving the proposed development and adjoining developments on Walkinstown Road, including locations close to the right angled bend and the junction with Walkinstown Road, the Board is not satisfied, on the basis of the information available, that the proposed development would not lead to obstruction and conflicting traffic movements that would endanger public safety by reason of traffic hazard.

ABP-310035-21 (2161/12) – permission granted for amendments to approved development under ref 4364/19 (ABP ref 307186-20) for mixed use development to include changes to block 1 providing for 1 no. additional 2 bed apartment, construction of 4 additional units at third floor level with external balconies, circulation and alterations to façades.

6.0 Policy Context

6.1. National Planning Framework (NPF)

The NPF sets out objectives which aim to secure more compact and sustainable growth patterns in urban areas in the period to 2040.

National Policy Objective 3b seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

6.2. Development Plan

Dublin City Development Plan 2016-2022

The site is subject to land use zoning Z1 (Sustainable Residential Neighbourhoods), the objective for which is to protect, provide and improve residential amenities.

Chapter 5 sets out the housing policies. Those policies which are directly relevant to this appeal case are identified below.

Policy QH1: To have regard to the DEHLG Guidelines on '*Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities*' (2007), '*Delivering Homes Sustaining Communities – Statement on Housing Policy*' (2007), '*Sustainable Urban Housing: Design Standards for New Apartments*' (2015) and '*Sustainable Residential Development in Urban Areas*' and the accompanying '*Urban Design Manual: A Best Practice Guide*' (2009).

Policy QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

Policy QH21: To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

Policy QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

Chapter 16 sets out the development standards

Section 16.10.8 - Backland Development

Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists.

Backland development is generally defined as development of land that lies to the rear of an existing property or building line. The development of individual backland sites can conflict with the established pattern and character of development in an 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 the development of a larger backland area. Applications for backland development will be considered on their own merits.

6.3. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development, comprising 8 dwellings on a brownfield, fully serviced urban site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.4. Natural Heritage Designations

None in the vicinity.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. Brian Cullen (34 Thomas Moore Road)

The submission can be summarised as follows:

- Permission was previously refused for dwellings on the site under re. 4364/19. The proposal does not address the reason for refusal.
- The site is small and narrow and cannot accommodate the development.
- The blocks will overlook the houses on Walkinstown Road and Thomas Moore Road resulting in loss of privacy and will block sunlight to gardens.
- The dwellings will have a poor outlook.
- The area of the site is being overwhelmed with new development.

7.1.2. Peter Byrne (16 Thomas Moore Road)

The submission can be summarised as follows:

- The site of Block 4 is unsuitable for development. It is too narrow and is overlooked on both sides by existing houses. This was highlighted in the Inspector's report on the previous appeal on the site (ABP 307186-20).
- The scale and aspect of the development is not significantly altered to that refused permission under ref. ABP 307186-20.
- The layout would result in parking spaces serving other blocks being in front of block 4.
- Block 4 and associated parking spaces will cause access problems for emergency vehicles.
- The proposal would be contrary to the Z1 zoning provisions for the area.
- The dwellings would have an adverse impact on dwellings on Walkinstown Road and Thomas Moore Road arising from overshadowing, overlooking and loss of privacy.

- The proposed dwellings would have a poor outlook and lack of privacy due to overlooking from adjoining properties. Overshadowing from existing trees will also arise.
- The proximity of block 4 to mature trees in neighbouring gardens would undermine their root structure.
- The wooden boundary fence is unsuitable and cannot be properly maintained.
- The development would be cut off and isolated from the existing community.
- Increased noise and traffic during construction.

7.2. Applicant Response

The submission by Simon Clear & Associates on behalf of the applicant can be summarised as follows:

- The proposal provides an opportunity for family housing utilising a brownfield site in a well serviced urban area in accordance with national and local planning policy.
- The dwellings are purposely designed to avoid undue overlooking of adjoining houses. The separation distance between opposing windows exceed the 22 metre standard requirement.
- The dwellings would not lead to overshadowing of the adjoining gardens.
- The semi-detached dwellings will have rear and enclosed side gardens to meet development plan requirements.
- The proposal is consistent with the scale of adjoining development.
- Transportation Planning Section has no objection to the proposal.
- Vehicular access is from Walkinstown Road. There would be no impact on Thomas Moore Road.
- The existing public laneway will be upgraded to a DMURS compliant standard residential access road.

7.3. Planning Authority Response

None received.

7.4. Observations

An observation was received from Marian Byrne (14 Thomas Moore Road). Her concern relates particularly to the semi-detached units proposed in the immediate vicinity of the rear garden walls of Nos. 14 and 16 Thomas Moore Road.

- A distance from the boundary of 3-4 metres, only, is proposed. The separation distance between opposing windows is overstated.
- The dwellings are to be located at the narrowest point of the site. It is not suitable for the proposed development.
- The dwellings would adversely impact on the residential amenities of her property with loss of privacy, overshadowing, visual obstruction and property value.
- The Camac River runs along the rear of Thomas Moore Road gardens and flows underground through the proposed site and across the Walkinstown/Drimnagh Road. This does not appear to be factored into the proposal.

8.0 Assessment

- 8.1. The site subject of this appeal forms part of a larger site on which a mixed use development was proposed and for which a split decision was issued by the Board under ref. ABP-307186-20. The Board refused permission for 3 no. blocks comprising 14 no. residential units on the current appeal site for 2 no reasons pertaining to deficiencies in the layout resulting in material adverse impact on amenities of prospective occupants and potential for conflicting traffic movements and obstruction.
- 8.2. The site is zoned Z1 residential and, as such, the proposal entailing the removal of an industrial building would be acceptable in principle and would constitute a planning gain for the area. The site constraints remain the same in that it is

backland site comprising of a narrow strip of ground between the rear gardens of existing two storey dwellings. Its width ranges from approx. 17 metres in the northern section to c.28.5 metres along the southern boundary.

- 8.3. I submit that the issues that require to be addressed in the current appeal are the matters detailed in the Board's refusal of permission and whilst the current scheme resolves some of the deficiencies identified with the previous scheme the layout remains dictated by the said site constraints and configuration.
- 8.4. The scheme, as amended, in seeking to address the two reasons for refusal entails:
- Reduction in the number of blocks from 3 no. to 2 no.
 - Reduction to the number of dwellings from 14 no. to 8 no. with the omission of apartments and provision of house units only.
- 8.5. Block 4 is to comprise of 2 no., two storey, 2 bedroom units each with a stated floor area of 107 sq.m. The units are to be served by private open space to the side and rear. The setback from the boundary to the dwellings on Thomas Moore Road to the east ranges between 2.82 and 3.852 metres. Windows serving habitable rooms are located to the front and side elevations with 2 no. 1st floor windows serving the landing and store room, only, in the rear elevation. These windows could be fitted with obscure glass although distances in excess of 22 metres are to be maintained to the rear windows of the adjoining properties. Distances of over 30 metres are to be maintained to the properties to the west fronting onto Walkinstown Road. The height of the dwellings, at 8.150 metres, is comparable to a standard 2 storey dwelling. Whilst it is stated that the existing trees along the eastern boundary are to be retained the proximity of the proposed dwellings to same would suggest that this may not be possible at this location.
- 8.6. Block 5 is to contain 6 no. terraced 3 storey, 4 bedroom units ranging in size from 121.5 to 124.1 sq.m and are of the same design as proposed in the previous application with an overall height of 8.8 metres. Each unit is to be served by a garden of at least 10 metres in length. Again, distances between opposing windows to properties in Thomas Moore Road exceed the 22 metre requirement with over 30 metres to be maintained to the properties fronting onto Walkinstown Road.

- 8.7. In the current layout the residential units are to be served by grouped parking and bin storage thereby removing the previous proposal for end-on parking. The widened portion of the lane will terminate at the said grouped parking area.
- 8.8. Whilst the landscaped rectangular area of ground to the front of Block 5 constitutes an improvement over that previously proposed, the areas as identified as open space to the north and south of both the blocks are more appropriately described as incidental landscaped areas and cannot be considered as amenity spaces as suggested in the design statement accompanying the application.
- 8.9. Whilst the aspect of Block 5 has been improved somewhat by the amended design the outlook of the dwellings remains onto the lane and rear boundaries of the dwellings fronting onto Walkinstown Road, many of which have rear access from same. The proposed plinth wall with railing along the laneway will not adequately ameliorate this outlook.
- 8.10. The arrangement to Block 4, in particular, remains problematic in that the dwellings, whilst dual frontage, will face onto end-on car parking that appears to serve the development as permitted to the north of the site, with the widened lane and rear of the properties fronting onto Walkinstown Road beyond. Thus, their outlook has not noticeably improved from that previously proposed.
- 8.11. I submit that the scheme should be considered as a whole and to omit Block 4 but permit Block 5 would result in an isolated building at a remove from the main part of the development of which it is supposed to form part and would exacerbate the previously cited concerns of lack of linkage in that would fail to form a coherent residential scheme with that as permitted to the north.
- 8.12. Whilst the reuse of the site for residential purposes would represent a planning gain for the area this cannot take primacy in considerations or used as justification for what would be a sub-optimum layout which would not provide adequate amenities for prospective occupants. I therefore consider that the proposed development has not satisfactorily addressed the previous reason for refusal in this regard.
- 8.13. In terms of the Board's 2nd reason for refusal the extent of end-on parking along the lane has been rationalised with spaces set back from the junction with Walkinstown Road and the omission of spaces at the right angled bend. 22 no. spaces are to be provided including spaces in the area which would be directly in front of block 4.

These are to serve the development as permitted to the north. The original layout for the overall scheme provided for over 50 end-on parking spaces to serve in c.70 residential units.

- 8.14. I would bring to the Board's attention that the layout corresponds with the details submitted by the applicant to the planning authority in compliance with conditions 12(b), (c) and 13 (refs. 4364/19 Sub02 and 4364/19 Sub03) attached to the permission granted. The widening and upgrading of the lane is also detailed therein which is reflected in the plans accompanying the application. Transportation Planning Division in its report on the current proposal does not object to the layout subject to relocation of the bin storage area and auto track drawings for refuse and emergency vehicles which were submitted by way of further information.
- 8.15. In view of the above I consider that the 8 no. grouped parking spaces would be acceptable and can be accommodated. I therefore consider that the issues arising in the Board's 2nd reason for refusal have been addressed.
- 8.16. Concerns regarding the disruption during the construction phase are noted. As would be normal practice a Construction and Environmental Management Plan can be agreed should permission be granted. I am satisfied that adherence to such a plan would ensure the management of demolition and construction activity is carried out in a planned, structured and considerate manner that minimises the impact of the works on local residents and properties in the vicinity.
- 8.17. In terms of site drainage and connection to services I note that the Engineering Department – Drainage Division has no objection subject to conditions.

Appropriate Assessment

- 8.18. Having regard to the nature of the development comprising of 8 no. dwellings on a brownfield site within a serviced urban area, and the separation distance to any European site, 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.

9.0 Recommendation

Having regard to the foregoing I do not consider that the proposal has satisfactorily addressed the 1st reason for refusal on appeal ref. ABP-307186-20 and I recommend that permission be refused for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the narrow configuration, back land and isolated nature of the site, the predominance of end-on parking to the front of Block 4 proposed to serve development permitted under planning reference number ABP-307186-20 (4364/19), the poor outlook from the dwelling units towards the rear of existing residential properties and their lack of linkage or visual connectivity with the community amenity space serving the larger development permitted under planning reference number ABP-307186-20 (4364/19) of which it shall form part, it is considered that the proposed development would seriously injure the residential amenities of the future occupants, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

April, 2022