



**Development**

1. Demolish single storey sun room to side of existing two storey dwelling, elevational changes, revision of site boundaries, by way of subdividing property into 2 sites,
2. to construct a new two storey detached dwelling within in new site, new vehicular entrance onto public road to serve proposed dwelling, new connection to existing public sewer and all associated works.

**Location**

13 Belfry Gardens, Dundalk, Co. Louth.

**Planning Authority**

Louth County Council.

**Planning Authority Reg. Ref.**

21988.

**Applicant(s)**

Mary Donnelly.

**Type of Application**

Permission.

**Planning Authority Decision**

Grant.

**Type of Appeal**

Third Party.

**Appellant(s)**

1. Peter Fitzpatrick.
2. R & C Agnew and others

**Observer(s)**

N/A

**Date of Site Inspection**

24.05.2022.

**Inspector**

Mary Mac Mahon.

## 1.0 Site Location and Description

- 1.1. The site is located in a residential area in Dundalk, proximate to the N52. The estate is accessed from St. Alphonsus Road. It is set out on large individual plots. Most dwellings in the estate are two storey with a high roof ridge, with detached garages on large plots. The houses are individually designed, as the estate was constructed with individual planning applications made on serviced sites. The general use of dark brick, quoins and high roof ridges provides for some unifying elements. There are a number of part gable fronted dwellings in the estate. Some houses have a complex roof profile, with different roof ridge heights. The front gardens are not enclosed, providing for an open aspect to the estate.
- 1.2. The site is located on the main spine road of the estate, where the alignment of the road begins to curve. The proposed new vehicular access is located on the obtuse angle.
- 1.3. The site area is stated as 0.0815 ha on the application form (the Site Location Map and Contextual Site Section refers to the site area as being 0.0898 ha). The existing house is stated as having a gross floor area of 226 square metres and the gross floor area of the existing garage (north of the house) is stated as 46 square metres. The site has a south-easterly orientation.

## 2.0 Proposed Development

- 2.1. The proposed development is to demolish an existing single storey sunroom on the southwestern side of the house, subdivide the site and provide for a new two storey dwelling served by its own vehicular access. At application stage, the gross floor area of the new dwelling was stated 234 square metres. The private open space associated with the existing dwelling house was to be 96 square metres. The private open space associated with the proposed dwelling house was to be 146 square metres. Water supply and drainage is to the public mains system.
- 2.2. At further information stage, the proposed dwelling was reduced in area to a stated 173.5 square metres. The site area associated with the proposed house is stated as 0.35ha and 0.055 for the existing house. The private amenity area is stated as 136 square meters for the proposed house and 100 square metres for the existing house.

2.3. The proposed dwelling is gable fronted, has brick finishes, and has a roof ridge height stated as 10.085 metres. It is two storey, in the main, with part dormer roof on the northern elevation and a single storey element to the rear.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Grant, subject to condition.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. Planning Report

Pre-Application Consultation (PAC) advice provided found the proposed development acceptable in principle, subject to compliance with development plan standards. Twelve no. submissions received, the contents of which are considered. The site is located on lands zoned 'Residential 1', the objective of which is to protect and improve existing residential amenities while providing for infill and new residential developments. National and regional policy support compact growth. The size of the proposed dwelling is significantly larger than that shown at PAC stage, which was 140 metres squared as opposed to the current 234 square metres. It is squeezed between the adjacent two large dwellings, which would affect the character of the area. There is inadequate spacing achieved, resulting in overbearing. The private open space associated with the proposed dwelling is substandard in design and poor quality. Further information is requested.

At Further Information, which was readvertised, the size of the proposed dwelling was reduced (173.5 square metres) and the private amenity areas of both dwellings was increased to 136 metres for the proposed dwelling and 100 square metres for the existing. Seven observations were submitted. The private amenity area has been improved and there is a larger separation from the adjacent dwelling. Storm water matters can be conditioned and sight lines are as requested,

##### 3.2.2. Other Technical Reports

Infrastructure Directorate – seek further information on storm water management and sight visibility lines.

Irish Water – grant subject to condition.

#### 4.0 **Planning History**

Reg. Ref. 98/520090 – Permission granted for dwelling, conservatory and detached garage.

Reg. Ref. 97/520141 – Permission granted for site development works for 19 serviced sites.

#### 5.0 **Policy and Context**

##### 5.1. **National Policy**

*Project Ireland 2040: National Planning Framework 2018*

The first National Strategic Outcome expected of the National Planning Framework is compact growth. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a).

National Policy Objective 35 -

*Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

*Sustainable Residential Developments in Urban Areas 2009*

*The provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division:*

*(i) Infill residential development - Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or walking time-bands. sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on 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. Local authority intervention may be needed to facilitate this type of infill development, in particular with regard to the provision of access to backlands.*

## **5.2. Development Plan**

The *Louth County Development Plan 2021 – 2027* currently applies (the application was made under the previous development plan). The site is zoned 'A1- Existing Residential', where the objective is to: *'To protect and enhance the amenity and character of existing residential communities'*. In relation to infill developments, these will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties. Section 3.16.1 states:

*The development of underutilised infill, corner and backland sites in existing residential areas is generally encouraged. A balance is needed, between the protection of amenities, privacy, the established character of the area and new residential infill.*

*HOU 18 To develop sustainable and successful neighbourhoods through the consolidation and redevelopment of built-up areas and promote new compact mixed-use urban and rural villages served by public transport and green infrastructure.*

*HOU 26 To require the provision of an appropriate mix of house types and sizes in residential developments throughout the County that would meet the needs of the population and support the creation of balanced and inclusive communities.*

*HOU 32 To encourage and promote the development of underutilised infill, corner and backland sites in existing urban areas subject to the character of the area and environment being protected.*

*HOU 33 To promote the use of contemporary and innovative design solutions subject to the design respecting the character and architectural heritage of the area*

On town centre or infill sites, a minimum of 60 square metres of private open space is required. On green field or suburban locations, this increases to 80 square metres.

The plan states at 13.8.32:

*“An infill site is a vacant or under-used area of land between existing buildings whilst a backland site is an area of land to the rear of existing buildings. The development of infill and backland sites support the principles of compact growth and the consolidation of development in existing built up areas. When developing such lands it is important to maintain a balance between preserving existing amenities and neighbourhood character, and implementing a policy of compact development. Where opportunities arise for infill or backland development, the following considerations shall be taken into account:*

- The prevailing density and pattern of development in the immediate area including plot sizes, building heights, and the proportions of buildings;*
- The design of the building(s) shall be of a high quality and make a positive contribution to the local streetscape and character. Innovative and contemporary designs will be acceptable if it is demonstrated such designs would positively benefit the built environment;*
- Impact on the residential amenities of surrounding properties such as the potential loss of daylight or new/increased overlooking;*
- Private open space for existing and proposed properties;*
- Car parking for existing and proposed residential units shall be in accordance with the car parking standards set out in Table 13.11 in this chapter. Adequate circulation*

*for the parking and turning of vehicles within the curtilage of sites should be provided; and*

- The location and orientation of any building(s) and windows in such building(s) shall take cognisance of the potential of adjacent infill/backland sites being developed and shall not prejudice the development potential of such lands.*

*Whilst infill and backland development will normally be required to comply with Development Plan standards there may be circumstances where these standards can be relaxed, particularly if it will result in the development of vacant or underutilised lands in central areas of towns and villages. This will be assessed on a case-by-case basis.*

13.16.12 provides car parking standards. One car parking space is required per residential unit in Areas 1 and 2, and two car parking spaces is required in Area 3. One cycle space per unit is required.

### **5.3. Natural Heritage Designations**

5.4. Having regard to minor scale and the foreseeable emissions from the proposed development 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.

### **5.5. EIA Screening**

5.6. Having regard to residential nature and minor scale of the proposed development, its location on a brownfield site in a built-up urban area where public water supply and public sewerage are available and in light of the foreseeable emissions therefrom it is possible to exclude the requirement for submission of an EIAR at a preliminary stage.

## **6.0 The Appeal**

6.1. Two Third Party appeals have been received. Joseph Cunningham and Associates Ltd has prepared an appeal on behalf of Peter Fitzpatrick. Environmental Heritage



Planning has prepared an appeal on behalf of local residents, including Raymond and Cina Agnew, listed therein. The appeals are summarised below.

## 6.2. Grounds of Appeal

- The proposed development will be out of character for the area and set an undesirable precedent, haphazard development and detract from the amenities of the estate;
- Traffic hazard arising from the site entrance's location on a bend, particularly arising from visitor parking;
- Overshadowing of the existing house and garden;
- Inadequate information of surface water, which could affect neighbours;
- The development plan was changed during the course of the application;
- The land use objective has changed from the previous county development plan and is less supportive of infill development. The proposed development will detract from the residential amenity of the area;
- The proposed development will detract from the character of the estate, therefore undermining the protection of residential amenity;
- The site is not an infill site, is not vacant or underutilised and does not comply with Section 13.8.32 of the current development plan, where the prevailing density should be taken into account;
- The changes made at Further Information are not sufficient to preserve the residential amenities of No.s 12 and 13 Belfry Gardens – increased overlooking, overbearing, loss of daylight and sunlight, overshadowing and disruption and nuisance during construction;
- Inadequate space for two cars and inability to exit the property in forward gear

## 6.3. Applicant Response

The applicant's agent, CMD Architects, submitted the following response summarised below:

- National planning policy is to densify serviced lands;
- The existing and additional dwelling can comply with development plan standards;
- The applicant reduced the size of the proposed dwelling at Further Information stage by 62.5 square metres and increasing the size of the private amenity area, recognising the issues raised and concerns of neighbours;
- Two car parking spaces are provided, with egress in forward gear and with adequate sight visibility lines, so no traffic hazard arises;
- The proportions of the plots in Belfry Gardens differ, so few could provide for a second dwelling;
- Originally, more houses were intended to be developed, but lands were sold off to other developments.

#### 6.4. Planning Authority Response

- The *Louth County Development Plan 2021-2027* applies.
- The principles of compact growth and infill development apply as Dundalk is a regional driver of city scale with a target population of 50,000 persons by 2031. Belfry Gardens provide a range of house types without a uniform approach.
- The dwelling house, as reduced in scale at Further Information does not compromise the character of the estate.
- There are no serious impacts arising on No. 12 Belfry Gardens and the proposed dwelling house is sufficiently offset from the common boundary.
- No overlooking of No. 13 Belfry Gardens arise as opaque glass at first floor level prevents this.
- Information on the position of the sun was provided at further information.
- The sight lines are appropriate for this residential estate and are in accordance with DMURS.
- Construction conditions have been attached to the grant of permission to minimise impact during these works.

- Surface water details have also been conditioned.

## 6.5. Observations

None received at appeal stage.

## 7.0 Assessment

7.1. The densification of the existing urban environment is national policy and compact development is a National Policy Objective of the National Planning Framework. The consolidation of built-up areas is an objective of the current county development plan. Therefore, the provision of an additional dwelling unit at this location would be in principle, in accordance with national and local policy. I would consider the proposed development to be in effect an infill site, being located in the large side garden of an existing house. The overall density of the site is not a significant consideration, having regard to the infill nature of the site. In relation to the change in the land use objective of the site, from the previous development plan to the current development plan, I recognise that the provision of an infill dwelling is less supported than was previously the case. However, Section 13.8.32 supports compact development. It is caveated to take account of the particular circumstance of the site and the proposed development, which will be explored below.

7.2. The main issues therefore in this appeal, in my opinion, are as follows:

- The capacity of the site to provide for an additional dwelling;
- Visual impacts on the character of the estate;
- Impacts on residential amenity;
- Traffic safety.

7.3. The site area is stated as 0.0815 ha. This is a relatively large site for an individual house in the built up area of Dundalk. It is also larger than many of the other plots on Belfry Gardens. The removal of the conservatory and subdivision of the site provides for an area sufficient to accommodate another dwelling. I would concur with the

planning authority, that the proximity of the proposed dwelling to the existing house as initially set out, was overly close and that there was insufficient space provided for the private amenity space. Furthermore, the single storey rear element to the southern side, proximate to No. 12 Belfry Gardens, reduced the separation distances between the dwellings. These separation distance contribute to the character of the estate. The proposed development as initially proposed was overly large and gave rise to a cramped form of development.

- 7.4. The proposed dwelling at Further Information stage, was reduced in footprint, improving the relationship with the existing dwelling. In my opinion, the single storey element to the rear which protrudes beyond the flank wall still compromises the separation distance with No. 12, but this matter can be deal with by way of condition. Its omission would facilitate the integration of the new dwelling house into the existing estate, as a more appropriate separation distance would be provided. The private amenity space has been much improved in quantity and quality. I do not consider that overbearing arises. There is adequate car parking space provided for two cars.
- 7.5. The height, style and fenestration of the proposed dwelling house are in keeping with the character of the area. The individual dwelling types in the estate provide for a robust character that can accommodate differentiation. Therefore, I am satisfied that the proposed development will not detract from the visual amenities of the area.
- 7.6. In relation to the impacts on residential amenity, the proposed development will not give rise overlooking. I do not consider that there will be any significant loss of daylight to either No. 12 or No. 13 Belfry Gardens. There will be some overshadowing of No. 13 Belfry Gardens, but this would be acceptable in terms of the dwelling's suburban location. As regards residential amenity during construction, this can be dealt with by way of condition, to ensure that impacts remain at an acceptable level.
- 7.7. In relation to traffic hazard, the site is located on the inside angle of the bend in the road, providing for adequate sight lines. I also note the curvature in the road, which encourages lower traffic speeds. The open nature of the estate facilitates clear views.
- 7.8. The absence of information on surface water is not critical in this instance, given the levels of the site involved, the site coverage and the availability of public infrastructure in the area. It can be dealt with by way of condition.

## 8.0 Recommendation

8.1. I recommend that permission is granted, subject to condition.

## 9.0 Reasons and Considerations

Having regard to the policies in the National Planning Framework, *the Louth County Development Plan 2021-2027*, the size of the site and its location, the scale of the proposed dwelling, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 14th day of December 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>The single storey element on the southern side shall be omitted.</p>

	<p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity, to ensure a greater separation distance from No. 12 Belfry Gardens.</p>
3.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.</p> <p>Prior to commencement of development, surface water arrangements shall be agreed with the planning authority.</p> <p><b>Reason:</b> In the interest of traffic safety and to prevent pollution.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>No walls, fences or other boundary treatment shall be constructed around the front gardens of the proposed dwellings, and front gardens shall be kept as "open plan".</p>

	<p><b>Reason:</b> To ensure that the proposed scheme remains open plan in nature/appearance, in the interest of visual amenity.</p>
7.	<p>Site development and building works shall be carried only out between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
9.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering</p>

	<p>the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>



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Mary      Mac      Mahon  
Planning      Inspector

31 May 2022