



An
Bord
Pleanála

Inspector's Report ABP313584-22

Development	Provision of one dwellinghouse and associated site works
Location	Site adjoining Beverton House, 25 Beresford Green, Beaverstown, Donabate, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F21A/0698
Applicant	Jason Pugh
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Ciaran and Suzy Hanley
Observer(s)	None
Date of Site Inspection	18 th September 2023.
Inspector	Michael Walsh

1.0 Site Location and Description

- 1.1. Donabate is a developing satellite town centred on the original village on the peninsula of that name. It is located to the east of the N1/M1 road corridor and has access from the R126 regional road. The village centre is quite compact and effectively orientated around the mainline railway station. Turvey Avenue extends in a westerly direction from the village centre. This avenue is adjoined to the south by Newbridge Park and to the north by a newly developed suburban area.
- 1.2. This site is located, some distance to the west of the village centre, in the newly developed Beresford estate. Access to the estate is directly off Turvey Avenue. The road layout is as shown on maps of the area. There is a mix of through roads and cul-de-sacs. The houses mainly comprise two-storey semi-detached houses. There are several areas of open space. One of these is located beside Beresford Gardens and Beresford Green. Within it there is a hard surfaced play area with play equipment for children.
- 1.3. The appeal site fronts on to a cul-de-sac which comprises part of Beresford Gardens. This cul-de-sac is adjoined by no.19 Beresford Gardens and by the open space referred to above. Further in, it is fronted on its northern side by nos. 20 and 21 Beresford Gardens and on its southern side by a substantial stone wall with brick piers bounding the grounds of Beverton House and the appeal site. Currently there is no access from the cul-de-sac to either of these properties. The road continues to a point just short of the block wall and railing, which bounds it from the end of the cul-de-sac at Beverton Grove. There is no turning bay at the end of the cul-de-sac and the margin in this location has been planted. There is no access, either for vehicles or pedestrians, between the two cul-de-sacs. There is also a planted margin alongside the stone wall referred to and there is a footpath alongside the northern side of Beresford Gardens.
- 1.4. Beverton House is a substantial two-storey house dating possibly from the early 20th Century. Its external walls have a smooth rendered finish. Its access is by means of a short driveway running alongside the play area. The space immediately in front of the house has a tarmac surface and this space is bounded from the appeal site by a block wall. Nos. 20 and 21 Beresford Gardens are located quite close to the cul-de-sac but each one has a driveway to the side.

2.0 Proposed Development

2.1. Initial Application The full description of the development, as expressed in the public notices, is as follows:

The provision of 1 no. 3 bedroom one and a half storey dwelling house with connection into existing public services and vehicular access off Beresford Gardens and associated site works. Temporary site access during construction will be via Beverton House, 25 Beresford Green.

The site area is stated to be 0.034 ha. and the floor area of the proposed house to be 139 m². Water supply is proposed from public mains. Wastewater and surface water are proposed to be discharged to public sewers. The applicant is described as a prospective purchaser and a letter of authorisation from the landowner for the making of the application is enclosed. A letter of consent from an owner of an adjoining property for the use of a driveway for construction access is also enclosed.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for this development subject to 16 conditions. Many of these are of a nature applicable generally to smaller-scale residential developments. The substance of these conditions includes requirements to comply with plans submitted, details of finishes, drainage details, landscaping requirements, access details and construction issues. Two particular conditions might be referred to. No. 3 states that the site layout plan should accord with the revised drawing received by the Planning Authority as Additional Information. No. 16 specifies that a contribution of €14,798 be paid towards expenditure incurred in respect of public infrastructure and facilities benefitting development in the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report referred to the National Policy context and various relevant objectives of the Fingal Development Plan 2017-2023. It was noted that two zoning

objectives relate to the subject site. The majority of the site is zoned *RS*, with the objective *Provide for residential development and protect and improve residential amenity* while the western portion of the site is zoned *RA*, with the objective *Provide for new residential communities subject to the provision of the necessary social and physical infrastructure*. Details of history and departmental reports are set out. The primary issues were stated to include compliance with zoning objectives, impact on the amenity of the area, transportation considerations, water services, impact on Natura 2000 sites, EIA assessment, Part V and comment on third party objections. The conclusion was that the construction of a dwelling on this site was considered to be acceptable in principle but that the applicant should be requested to address issues of access, traffic management during the construction phase, landscaping measures and surface water drainage. Arising from this, additional information was requested to address these issues including specific revisions to the entrance details.

The further report, following the receipt of additional information, reviewed the responses received in relation to the request for this information. It noted that the applicant had generally addressed the outstanding issues and expressed the opinion that the proposed development, subject to conditions, would not unduly impact on the amenities of the adjoining property and surrounding area.

3.2.2. Other Technical Reports

The report of the Water Services Division stated that there was no objection subject to a need to clarify some details of surface water drainage.

The report of the Transportation Planning Section sought a setting back of the boundary wall, a relocation of the access, the need for a construction management plan and the need for the submission of certain revisions to the layout.

The report of the Parks and Green Infrastructure Division, noting a lack of clarity about the proposed treatment boundary details, requested the submission of a number of amendments.

A report was also received from Irish Water. This stated that there was no objection subject to certain conditions being attached to any grant of permission.

4.0 Planning History

- Reg. Ref. No. F12A/0086. Permission granted on 31.10.2012 for 155 dwellings on a 6.48 ha. site which included the site of Beverton House.
- Reg. Ref. No. F12A/0086/E1. Duration of Permission for above development extended on 7.06.2017.
- Reg. Ref. No. F21A/0147. Permission granted on 31.10.2012 for extension to existing residence and detached domestic garage at Beverton House.
- Reg. Ref. No. F21A/0493. Permission refused on 4.11.2021 for construction of dwellinghouse with vehicular access off Beverton Grove on site of current appeal, the reason stating that the development would endanger public safety by reason of traffic hazard.

5.0 Policy and Context

5.1. Development Plan

The current development plan for the area of the Planning Authority is the Fingal Development Plan 2023-2029. This plan came into effect on 5.04.2023. The Plan in effect at the time of the processing of the application, the making of the decision and the lodgement of the appeal was the 2017-2023 Fingal Development Plan.

The Plan currently in effect is that to which regard must be had in the assessment of this appeal. The development site is located in an area having the **RS** zoning objective. This is described as *residential* and is expressed as “provide for residential development and protect and improve residential amenity”. The western portion of the site has an overlay indicating that it is subject to Local Area Plan 7.A.

There are several other objectives relating to infill development. Two might be noted. DMSO31 states that new infill development should respect the height and massing of existing residential units. DMSO32 provides a list of criteria against which such developments will be assessed.

5.2. Natural Heritage Designations

There are no Natural Heritage Sites in close proximity to the site of the proposed development. As noted in the Planner's report there are two Natura 2000 sites located in the coastal area of the Donabate peninsula, some distance away from the vicinity of the proposed development. These are the Malahide Estuary Special Area of Conservation and the Broadmeadow Swords Estuary Special Area of Protection. It can be inferred, having regard to the nature of the proposed development, that no need can be identified for a Stage 2 Appropriate Assessment.

5.3. EIA Screening

Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom, it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

It is stated initially in the appeal that the appellants do not object to the principle of the proposed development and appreciate the potential to provide for this infill development. Their fundamental concern is stated to relate to transport and access. Arising from this it is submitted that the most suitable access option is a shared permanent access via the existing access serving Beverton House, this being the access agreed to be used during the construction phase.

The substance of the grounds is as follows.

- The existing cul-de-sac is c. 5m wide with a footpath in front of the appellants' house. The subject site is not served with an existing footpath, which has the potential to give rise to a vehicle/pedestrian traffic hazard.
- Referring to a report of the Transportation Department that there is very little reason for pedestrians other than the residents to walk to the end of the road, it is submitted that this assessment is subjective, does not accurately reflect the level of activity found at this cul-de-sac and that a relaxation of sightlines should not have been considered by the Transportation Department in this instance.
- It is submitted that the Transportation Department did not fully consider the restricted circumstances of the appellants' premises in terms of off-street parking and the impact of this on the proposed development, the consequences of which include the need for on-street parking for a second car and the need for total clearance for access to the proposed development, thus giving rise to a significant traffic hazard.
- It is noted that approximately 2.5m of the width of the original side passageway was ceded to an adjoining property at the time of construction, thereby reducing the width of the off-street parking space and resulting in a contravention of a condition of the original permission. As the appellants were not responsible for this action, it is submitted that they should not have to further suffer the consequences of these past actions.

In conclusion it is submitted that permission should be refused for this development, due to risk of public safety, the diminishing of parking availability and the overall hindering of traffic in this residential area. It is further submitted that the provision of the access through the current opening in the boundary wall of the existing adjoining dwelling would represent the most suitable permanent solution.

6.2. Applicant Response

- Sightlines

The need for sightlines of 23m only applies in the western direction and the relevant drawing indicates that the visibility of 22.1m is less than one metre short of the required distance. Referring to the Design Manual for Urban Roads and Streets, it is noted that a reduction to 2.0m might be provided in difficult circumstances where vehicle speeds and traffic speeds are low.

- On Street Parking

In relation to the statement in the appeal that access to the subject site will only be possible when there is total clearance on the cul-de-sac, drawings of swept paths submitted on behalf of the applicant indicate that vehicles could enter and exit the subject site with a number of vehicles parked on the street in front of nos. 20 and 21. These drawings further provide for two parking spaces with space to turn around within the curtilage of the subject property. It is also noted that the proposed entrance will effectively widen the road by 2.1m outside the subject site, thereby resulting in an increase in space for vehicles turning on the cul-de-sac.

- Footpath serving Beresford Gardens

Noting that the subject site is not served with an existing footpath and that pedestrians approaching the subject site would need to cross the road at the end of the cul-de-sac where no traffic would be approaching from the east and traffic approaching from the west would be travelling at very low speeds, it is submitted that a dangerous situation for pedestrians would be unlikely to be created. A further point is that planting on the subject side of the road is of aesthetic value.

- Access via Beverton House

While the subject site is located on the lands adjoining Beverton House, which historically formed part of the gardens of that house, it is noted that the subject site is now in a different ownership and it is pointed out that the creation of a site entrance via Beverton House would create a burden on that property. It is further pointed out that, while there is agreement for construction access, the position of

the owner of that property is that he would not consider providing a permanent access via Beverton House to the subject site.

6.3. Planning Authority Response

The substance of this response is that the Planning Authority has no further comments to make in relation to the proposal and requests that Condition No. 16 (Section 48 levy) be included in the Board's determination.

6.4. Observations

No observations have been received by An Bord Pleanála in relation to this appeal.

6.5. Further Responses

Two further responses to the appeal have been received. The response on behalf of the appellants notes that, due to on-street parking taking place on the side of the road with footpaths, vehicles predominantly use the opposite side of the road to access 21 Beresford Gardens. As the relevant layout drawing has not allowed for this, it does not prove that the sightlines meet the requirements. Given the nature of the on-street parking issue and consequent safety problems for cyclists and drivers, it is submitted that a relaxation of sightlines should not be considered. It is further submitted that the continued use of the access via Beverton House would represent less of a traffic hazard than the cul-de-sac access. It is submitted finally that several additional risks and concerns raised in relation to this application were not taken into consideration by Fingal County Council in the decision-making process.

The further response of the Planning Authority is to the effect that this body has no further comment to make in respect of this development.

7.0 **Assessment**

7.1. **Identification of Issues**

These might be dealt with under the following headings:

- Appropriate Assessment Screening
- Principle and General Details of Development
- General Access Issues
- Capacity of Access Road
- Congestion Problems
- Details of Access Proposals

7.2. **Appropriate Assessment Screening**

7.3. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built-up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

7.4. **Principle and General Details of Development**

7.5. This development effectively comprises an infill residential development in an established residential area and is fully compliant with the zoning objective applicable to the site. In this regard it is also consistent with relevant national policies. Regarding the details of the proposed development, including the siting of

the house, its size, its orientation and its relationship to adjoining development, it can be taken that these are generally satisfactory.

7.6. General Access Issues

7.7. Consideration of three possible access options has arisen in the course of the development of the details of this residential proposal. A previous application for a house on this site with an access from Beverton Grove was refused on traffic safety grounds by Fingal County Council (Reg. Ref. No. F21A/0493). The access from Beresford Gardens is what is proposed in the current application. The third option is an access through the grounds of Beverton House (no. 25 Beresford Green). Consideration of this has arisen as the current proposal incorporates an arrangement with the owner of that property for a temporary access through the property to facilitate the construction of the proposed house. It has been made clear that this arrangement applies specifically to the construction phase and that no consent would be forthcoming for the provision of a permanent access in this location. At the same time this option has been raised in the appeal. I would make the point that the Board's consideration of this appeal does not include consideration of a permanent access in this location and that this consideration, having regard to the relevant statutory criteria, is orientated to the components of the application as submitted to Fingal County Council.

7.8. Capacity of Access Road

7.9. The access road in this case is a relatively short length of cul-de-sac which terminates at the boundary separating the Beresford Green development from the Beverton development. This road currently provides access to two houses (nos. 20 and 21 Beresford Gardens) and it would be reasonable to comment that the standard of this road, having a carriageway width of 5 metres, is consistent with general standards for roads of this type, having regard to common practice and recommendations of the Design Manual for Urban Roads and Streets. These provide in some instances for shared spaces. It is noted in this case that there is a footpath on one side of the road and a planted margin on the other side. There is no turning circle at the end of the road. The proposed house, if permitted, would result in the

cul-de-sac providing access to three houses. This should, subject to further consideration of layout details, be within the capacity of this road.

7.10. Congestion Problems

7.11. Notwithstanding the fact that the road gives access to just two houses, the positioning and layout of the driveways of these houses is giving rise to difficulties for the occupants in manoeuvring into and out of their driveways. In the case of no. 21, whose driveway is located at the very end of the cul-de-sac, these circulation difficulties have been described in some detail in submissions made on behalf of the appellants. The driveway in that case is particularly narrow. That imposes constraints on movements and it appears that only one car can be accommodated in the driveway. A further point is that on-street parking on the near side of the cul-de-sac also inhibits movement. In the case of the other house (no. 20) the situation is broadly similar and the occupants of that house submitted observations on the current development proposal to the Council.

7.12. Submissions made on behalf of the appellants include an account of boundary changes between Beresford Gardens and Beverton Grove when these developments were taking place. It is suggested that there might be some scope for taking this issue up with Fingal County Council. That however is a matter for the appellants. The question which arises in the case is whether the proposed development would contribute materially to existing problems of access and circulation on the cul-de-sac.

7.13. Details of Access Proposals

7.14. Following the lodgement of this application, Fingal County Council examined the access details and sought additional information in relation to a number of matters, including details of surface water drainage, landscaping and construction practices. The matters of most relevance to this appeal are modifications to the access arrangements. These are indicated on revised plans of the site access and layout arrangements. They include a relocation of the entrance and a boundary setback of 2.1 metres from the edge of the road. The revised plans also illustrated swept paths

for two cars entering and exiting the property, in such a way that the cars could turn within the property and not have to exit on to the road. The first and third conditions of the Council's decision specified that the development should be carried out in accordance with the additional information and revised site layout plan received with that information. I infer that the detailed modifications were devised to result in greater ease of access and circulation in the cul-de-sac for occupants of the proposed house, for occupants of the existing houses and for occasional other users of the cul-de-sac. In that context I consider that it would be reasonable to assess the effects of the proposed development by reference to the modifications submitted as additional information.

- 7.15. Shortcomings in the layout of the cul-de-sac are that the existing houses and the proposed house are located very much towards the end of the cul-de-sac and that circulation constraints impede free use for parking of the driveways of the existing houses; effectively requiring a second car to be parked on the kerbside. I would note in this regard that there may be a high dependency on car usage given the limited availability of public transport. There is a rail service to Donabate but the station is in the centre of the village and some distance from this estate. Bus services are limited, with seemingly none on Turvey Avenue.
- 7.16. While there are some constraints on circulation in the cul-de-sac, this road is adequate in width for its function as a local access road serving a small number of houses. Cars or other vehicles can be parked on the kerbside and there is space for such parking alongside the boundary of no. 19 Beresford Gardens. It is possible in practice for situations to arise in any location where some degree of obstruction and inconvenience can be caused by vehicles parked or moving in awkward positions. Drivers normally deal with these situations by driving slowly and carefully and with due regard for other road users.
- 7.17. There is a question of perspective to be kept in mind in this case. Even if permission were to be granted for the proposed house, there would still be just three houses served by this cul-de-sac. The volume of traffic movements would therefore be very

low. This cul-de-sac is defined as such and there can be no expectation of a through link, for either vehicles or pedestrians, to any other area.

- 7.18. The adequacy of the sight distance at the proposed entrance has been discussed. What is at issue is the sight distance to the west of the entrance. The Transportation Planning Section of Fingal County Council assessed the available sight distance to the west of the entrance to be c. 20m from a 2m setback. They expressed the view that this would be acceptable in the circumstances of this case, having regard to traffic moving at significantly reduced speed, and that it would be appropriate to accept a relaxation of the offset from the edge of the road to 2m. In a situation where vehicle movements are of necessity at very low speeds and relatively few in number, the imposition of more demanding standards is scarcely necessary.
- 7.19. A further feature of some benefit to circulation in the cul-de-sac is the proposal to set back the entrance 2.1 metres from the edge of the road, slightly back from the line of the existing wall. The concrete access ramp to the entrance would effectively provide additional space for any vehicles manoeuvring at the end of the cul-de-sac.

8.0 Recommendation

- 8.1. On the basis of the above assessment I recommend that permission be granted for the development proposed. The recommended draft decision details are set out in the following sections of the report.

9.0 Reasons and Considerations

Having regard to the pattern of development in the vicinity of the site and the provisions of the Fingal Development Plan 2023-2029, including the residential zoning objective for the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially affect the amenities of property in its vicinity, would not endanger public safety by reason of traffic hazard and would in general be consistent with the proper planning and 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 24th day of March 2022], 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>Reason: In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>The entire premises shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations.</p> <p>Reason: in the interest of clarity and to ensure proper planning and sustainable development.</p>
6.	<p>All bathroom/en-suite windows shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.</p> <p>Reason: in the interests of residential amenity.</p>

7.	<p>The landscaping scheme shown on Drawing no. 21A07 PLA207 received by the planning authority on the 24th day of March 2022 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>Any plant failures shall be replaced within the following planting season until such time that the plantings become established.</p> <p>Reason: in the interest of visual amenity.</p>
8.	<p>The following requirements shall be complied with in full:</p> <ul style="list-style-type: none"> (i) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm which would interfere or obstruct (or could obstruct over time) the required visibility envelopes. (ii) The gradient of the access road shall not exceed 1:20 over the last 2m of its approach to the public road. The access shall be a non-slip surface. (iii) All of the above works shall be carried out at the developer's expense in accordance with the requirements of Fingal County Council. <p>Reason: in the interest of road safety and the proper planning and sustainable development of the area.</p>
9.	<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, inter alia, include the following requirements.</p> <ul style="list-style-type: none"> (i) Details of the limitations on the hours of operation. (ii) Details of all necessary measures to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads and the steps to be taken to remove any such spillage or deposit applicant's/developer's expense. <p>Reason: to protect the amenities of the area.</p>

10.	<p>All public services to the permitted development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.</p> <p>Reason: in the interest of amenity.</p>
11.	<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>Reason: 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>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

. Michael Walsh
 Planning Inspector

Date: 9 November 2023