

Inspector's Report ABP-313683-22

Development Location	Permission is sought for the construction of a dwelling house and all associated site works. No. 52, Copeland Grove, Dublin 3, D03 F6X3.
Planning Authority	Dublin City Council North.
Planning Authority Reg. Ref.	3492/22.
Applicants	Pat & Susan McNamara.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellants	Pat & Susan McNamara.
Observers	1. Sean Haughey TD.
	2. Mary Kilduff.
	3. Brendan McKenna & Ors.
	4. Brenda & Paul Dolan.
	C Deschol Dresten 9 Trick Marrow
	5. Paschal Preston & Trish Morgan.

Inspector's Report

- 7. Cllr Deirdre Heney.
- 8. Cllr Damian O'Farrell.

Date of Site Inspection

Inspector

31st day of August, 2022.

Patricia-Marie Young.

Contents

1.0 Pre	liminary Comment4
2.0 Site	e Location and Description4
3.0 Pro	posed Development5
4.0 Pla	nning Authority Decision5
4.1.	Decision5
4.2.	Planning Authority Reports5
4.3.	Prescribed Bodies
4.4.	Third Party Observations6
5.0 Pla	nning History7
6.0 Po	licy Context9
6.1.	Development Plan9
7.0 The	e Appeal 12
7.1.	Grounds of Appeal 12
7.2.	Planning Authority Response
7.3.	Observations
8.0 As	sessment14
9.0 Re	commendation18
10.0	Reasons and Considerations

1.0 **Preliminary Comment**

1.1. In relation to the request for an oral hearing the Board in accordance with Section 134(3) of the Planning and Development Act, 2000, (as amended), has decided to determine this case without an oral hearing on the basis that the appeal can be dealt with through written procedure and the information provided on file.

2.0 Site Location and Description

- 2.1. No. 52 Copeland Grove, the appeal site has a stated site area of 1,629.7m², and is located on the north eastern end of Copeland Grove, a mature residential cul-de-sac, in the Dublin city suburb of Clontarf, which is accessed off the Howth Road (R105 Regional Road), which is located 246m to the south, and with this residential suburb situated over 3km to the north east of Dublin's city centre.
- 2.2. The site contains a two-storey semi-detached dwelling that is setback from the public domain by a hard surfaced concreted front garden which at the time of inspection accommodated off-street car parking. The western boundary of the site aligns with an irregularly shaped pedestrian access laneway that links to the Malahide Road (R107 Regional Road) c65m to the north of the site at its nearest point.
- 2.2.1. The rear of the site is accessed via a tall vehicle access, with the rear of the semidetached dwelling appearing to have been extended at some point in time. It extends to a depth of approx. 29 m and its rear boundary wall adjoins the grounds of Mount Temple Comprehensive School. What is visible of the rear garden appears to be overgrown and unkempt. The rear gardens of the 2-storey semi-detached No.s 108 to 118 Malahide Road adjoin the northern boundary of the site.
- 2.3. The cul-de-sac road of Copeland Grove width is restricted along its length by ad hoc on-street car parking and the subject semi-detached dwelling forms one of six semidetached pairs who irregular triangular shaped setback front gardens open onto with a variety of vehicle access points present on their roadside boundary.

3.0 **Proposed Development**

3.1. Planning permission is sought for a detached single storey 3-bedroom bungalow dwelling with access onto the side of Copeland Grove, minor alterations to front and side elevation of the existing dwelling together with associated works and services.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. The Planning Authority's Notification of their Decision to Refuse Permission was issued on the 4th day of May, 2022. It reads:
 - "1. Having regard to the characteristics of the application site, the proposed access route serving the new house, and general traffic flow and management in a constrained area, the proposed development would be contrary to Section 16.10.9 of the Dublin City Development, 2016-2022 with respect to corner/side garden sites, by reason of traffic safety. The proposed development would also set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be contrary to the proper planning and sustainable development of the area."

4.2. Planning Authority Reports

4.2.1. Planning Reports

The Planning Officer's report is the basis of the Planning Authority's decision.

4.2.2. Other Technical Reports

Drainage: Seeks additional information and recommends that any grant of permission be withheld until the concerns that they raise are addressed.

Transportation: Concludes with a recommendation for refusal.

4.3. Prescribed Bodies

4.3.1. None.

4.4. Third Party Observations

- 4.4.1. During the course of the Planning Authority's determination of this application several Third-Party submissions were received. These objected to the proposed development and raised several similar planning related concerns including:
 - Substandard design.
 - Adverse residential amenity impacts, including overshadowing concerns.
 - Adverse visual amenity impacts.
 - Road safety & traffic hazard.
 - Foul and surface water drainage inadequacies.

• Additional overspill of traffic onto Copeland Grove which is already congested with issues already present with traffic conflicts with this concern heightened by the site's adjoining a pedestrian laneway that links this cul-de-sac road to Malahide Road. With the existing dwelling parking three cars consistently to the front of the host dwelling.

- Adverse impact on emergency service impact.
- Nuisances arising during construction and operation of the proposed development.
- Frustration with the repeated applications made to develop this site and the costs arising to those seeking to participate in the public participation process.
- It is unclear how refuse is to be managed for the proposed dwelling without giving rise to obstructions.

• Loss of mature trees which add to the visual amenity of the setting and in turn adverse biodiversity impact.

- Narrow entry point serving the site onto the public road.
- Lack of clarity on impact of the proposed development on the boundary wall adjoining the laneway.
- Provision of on-site turning circle is objected to.

• Turning the front garden of No. 52 Copeland Grove into an access road is objected to.

• The proposed dwelling is considered to be ugly, visually intrusive and overbearing therefore would adversely impact on the setting.

• The design is at odds with the 1950s character of Copeland Grove's original design.

- The use of the existing front garden area is misrepresented.
- Procedural concerns raised.
- The land to the rear of the site is landlocked.

5.0 **Planning History**

5.1. Site

5.1.1. **P.A. Ref. No. 3823/21:**

Planning permission was **refused** for a detached single storey house bungalow with three bedrooms to side of No. 52 together with minor alterations to the front and side elevation of existing house. The reason for refusal reads:

"1. Having regard to the characteristics of the application site, the proposed access route serving the new house, and general traffic flow and management in constrained areas, the proposed development would be contrary to Section 16.10.9 of the Dublin City Development Plan, 2016-2022 with respect to corner/side garden sites, by reason of traffic safety. The proposed development would also set an undesirable precedent for other similar developments, which would in themselves and cumulatively, cause serious injury to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area."

Decision date: 12/01/2022.

5.1.2. **ABP-307225-20 (P.A. 2273/20):** On appeal to the Board planning permission was **refused** for the construction of three houses together with associated site works and services for the following stated reasons and considerations:

"Having regard to the restricted site access arrangements, which require the use of a pedestrian laneway which is a public right-of-way to facilitate vehicular movements, it is considered that the proposed development represents an inappropriate form of

development, which would create an unacceptable conflict between vehicular traffic and pedestrian users and would endanger public safety by reason of traffic hazard. As such, the proposed development would be contrary to Section 16.10.9 of the Dublin City Development Plan 2016-2022 regarding the development of corner/side garden sites, with respect to site access. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area."

Decision date: 01/10/2020.

5.1.3. I note that the Planning Authority's Planning Officer's report sets out an overview of the site's planning history which includes similar developments that were refused, and I also note that a planning history folder is attached to file. The contents of which I have noted.

5.2. Vicinity

5.2.1. ABP-309327-20 (P.A. Ref. No. (3683/20)

Concurrently on appeal to the Board and at the time this report was prepared was yet to be decided is a development seeking retention of: (i) the 3.65m high roof structure, with pier, over ground floor terrace area to rear of the dwelling; (ii) widening of the existing vehicular entrance off Copeland Grove to 3.6m in width, at **No. 50 Copeland Grove**.

5.2.2. ABP-300017-17 (P.A. Ref. No. 3583/17).

On appeal to the Board planning permission was granted subject to conditions for a development consisting of the demolition of existing single storey extension to the side and rear of main dwelling including demolition of existing chimney flue; construction of: (i) part single/part two storey extension to side and rear of existing dwelling (ii) alterations to front elevation including new entrance structure, garage door and entrance door, (iii) new roof lights to existing hipped roof to side (iv) external insulation to existing property (v) solar panels to rear, refurbishment and renovation of existing dwelling inclusive of all associated site and landscaping works, at **No. 51 Copeland Grove**.

Decision date: 06/03/2018.

6.0 Policy Context

6.1. **Development Plan**

- 6.1.1. The appeal site has a zoning objective '*Z*1 Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective: "to protect, provide and improve residential amenities".
- 6.1.2. The housing policies of Dublin City Council are set out in Chapter 5 of the development plan. The 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).
 - The "Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities" (2007) identify a target gross floor area of 92 m² for a 3-bedroom/5-person, 2-storey house, with the following minimum internal room dimensions:
 - Minimum main living room: 13 m²
 - Aggregate living area: 34 m²
 - Aggregate bedroom area: 32 m²
 - Storage: 5 m²

• **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.

- 6.1.3. Section 16.10.8 of the Development Plan states that Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists. 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.
- 6.1.4. In relation to corner sites the Development Plan Section 16.10.9 of the development plan notes that such development can make valuable additions to the residential building stock of an area and will be allowed on suitable larger sites.
- 6.1.5. The Planning Authority will have regard to the following criteria in assessing such proposals:
 - The character of the street.
 - Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.
 - Impact on the residential amenities of adjoining sites.
 - Open space standards and refuse standards for both existing and proposed dwellings.
 - The provision of appropriate car parking facilities, and a safe means of access to and egress from the site.
 - The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
 - The maintenance of the front and side building lines, where appropriate.

- 6.1.6. The development standards concerning infill housing are set out in section 16.10.10 of the development plan. In general, infill housing should comply with all relevant development plan standards for residential development. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict, and under-utilised land in the inner and outer city is developed.
- 6.1.7. Infill housing should:

• Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.

• Comply with the appropriate minimum habitable room sizes.

• Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

- 6.1.8. The Development Plan standards regarding alterations and extensions to existing dwellings are set out in Sections 16.2.2.3, 16.10.12 and Appendix 17 of the development plan. Dublin City Council will seek to ensure that alterations and extensions will be sensitively designed and detailed to respect the character of the existing building, its context, and the amenity of adjoining occupiers.
- 6.1.9. In relation to Private Open Space a minimum standard of 10m² of private open space per bedspace will normally be applied, with up to 60-70m² of rear garden area sufficient for houses in the city.
- 6.1.10. In relation to car parking the site is located in Area 2 of the city, within which, a maximum standard of 1 no. car parking space per dwelling applies.
- 6.1.11. The Development Plan indicates that will adopt a flexible attitude regarding restricted road widths over short lengths, where no other practicable solution is possible. However, this flexible attitude will not apply where it is not possible to provide an access of sufficient width to comply with safety and engineering requirements.
- 6.2. **Other**
- 6.2.1. The National Planning Framework (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.

6.3. Natural Heritage Designations

6.3.1. None.

6.4. EIA Screening

6.4.1. Having regard to the nature and scale of the proposed development, comprising the addition of a residential dwelling, alterations and additions to an existing dwelling in an established residential area, the lateral separation distance between the site and the nearest Natura 2000 site, which is the South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) which is situated c0.7km to the south as the bird would fly together with the nature of the landscape in between, 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.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The grounds of this First Party Appeal can be summarised as follows:
 - It is sought that the Planning Authority's decision is reconsidered.
 - Reference is made to the site's extensive planning history.
 - Potential solutions to address the Planning Authority's concerns includes the creation of a pedestrian entrance to the site from the public laneway, thereby separating pedestrian and members of the community, occupants, and guests. Similarly, it is contended that the proposed boundary of the host site could be enhanced to create definition of parking for both the existing and proposed property.
 - The use of a rumble strip would reduce the velocity of vehicles entering and exiting the site.

- The development of a superior quality home that is sensitive and an appropriate response to a unique setting can be accommodated on this site.
- The site has untapped potential that is sufficient to accommodate an additional dwelling alongside nurturing the sensitive habitat and biodiversity that is present.
- Examples of precedents are referred to.
- The scheme would not encroach on the width of the adjoining laneway.
- It is not accepted that any adverse impact would arise on road safety including for vulnerable road and lane users.
- This proposal seeks a modest dwelling on a large suburban plot in a well serviced location.
- The access width of 3.1m serving the site could be widened should the Board deem that appropriate to do so.
- This proposal accords with planning policy provisions.

7.2. Planning Authority Response

7.2.1. None received.

7.3. Observations

- 7.3.1. During consideration of this appeal the Board received a total of 8 No. Third Party submissions mainly from neighbouring residents of Copeland Grove and also by a number of public representatives. The issues raised can be summarised as follows:
 - The Planning Authority's reason for refusal is supported.

• Frustration is raised in relation to the substantial number of similar applications made by the applicants to develop this site over the years despite the site being consistently found to be inadequate for the type of development sought.

• The similar applications that have been made have consistently failed to address or acknowledge the insufficient access serving the site and the potential of the proposed development to give rise to conflict with pedestrian and vehicle movements in its vicinity. It also failed to address the injury it would cause to adjoining residential properties and the wider issued of the undesirable precedent it would set.

• The applicants indicate that they are open to consult with neighbouring properties, but they have consistently failed to do so in the past and in the making of this application.

• The addition of another vehicular access would materially change the function of this cul-de-sac at a point where there is insufficient space to accommodate it and at a point where it has the potential to conflict with a pedestrian throughway that links into the cul-de-sac of Copeland Grove alongside the site.

• The creation of an access onto the pedestrian entrance onto what is a public laneway is objected to and contentions that this laneway would be separately managed are not accurate due to it being in public ownership.

8.0 Assessment

- 8.1. Having inspected the site, had regard to all documentation on file, including but not limited to the appellant and observers' submissions to the Board I concur with the Planning Authority that the general principle of residential development on this brownfield suburban irregularly shaped suburban site of a stated 1,629.7m² which already containing one of a semi-detached two-storey dwellings is acceptable.
- 8.2. Whilst I consider that the proposed development which consists of the provision of what is described to be a contemporary single storey detached bungalow together with the alterations and extensions to the host dwelling of No. 52 Copeland Grove is not of any particular quality nor does it show particularly sensitivity to the site as well as its context. Together with the design being one that would add little in terms of positive visual contribution to its visual setting through to the approach to achieving the site's potential is poorly considered.
- 8.3. These I consider are matters that could be achieved by a substantially different design and layout approach that sought to be innovative in achieving increased residential density but also that was respective of its immediate setting whilst showing better understanding of the site's constraints. Including for example its limited road frontage, its sylvan character, its juxtaposition to other sensitive to change established

development through to the fact the site bounds onto what I observed at the time of inspection to be a well-used pedestrian through link that provides connectivity between Copeland Grove and Malahide Road.

- 8.4. The substantive changes required can not in my view be achieved by way of further information or by way of conditions.
- 8.5. Consequently, I consider the substantive issues arising relate to the Planning Authority's single reason for refusal. This in itself is substantial in its own right upon which to base the Planning Authority's reason for refusal on the following basis.
- 8.6. Firstly, in the Planning Authority's reason for refusal they considered that the proposed development would be contrary to Section 16.10.9 of the Development Plan having regard to the characteristics of the site, the proposed access route serving the new house, the general traffic flow and management in a constrained area.
- 8.7. This section of the Development Plan relates specifically to corner sites and while it notes that such development can make valuable additions to the residential building stock of an area and that they will generally be allowed on suitable larger sites.
- 8.8. It sets out that the planning authority will have regard to a number of criteria in assessing proposals for the development of such sites including but not limited to impact on the residential amenities of adjoining sites, the provision of appropriate car parking facilities, and a safe means of access to and egress from the site. This I consider is particularly crucial in relation to the Planning Authority's concerns with the proposed development. As well as matters such as refuse collection which arguably are interconnected with the restricted road frontage and restricted area to the front of No. 52 Copeland Grove, the host dwelling upon which access and services such as appropriate waste collection space to the proposed and existing would be dependent upon.
- 8.9. With the latter two criteria having the potential to give rise to impacts upon the residential amenity as well as safe function of vehicle and vulnerable road user movements at the end of a restricted in width and heavily congested by way of the overspilling along the kerbside of this road for on-street parking for residential properties that align it. Through to with the end of this cul-de-sac also being the point where the pedestrian laneway provides connectivity with the Malahide Road to the north which provides access for public transport, services, educational institutions to

mention but a few. This laneway opens onto cul-de-sac of Copeland Grove immediately alongside the western most point of the roadside boundary of the site and also aligns with the entirety of the site's western boundary.

- 8.10. In relation to the Planning Authority's determination of this application of note is the report dated the 21st day of April, 2022, from the Transportation Planning Division. This report notes the Boards reasons and considerations for refusal of permission for a previous development on this site (Note: ABP-307225-20). The Boards reason for refusal is similar to that of the Planning Authority in their decision notification for the proposed development sought under this application and was decided on the 1st day of October, 2020, therefore under the same Development Plan that is applicable to this current application before the Board for its determination.
- 8.11. In this case a more substantial residential scheme of three two-storey dwellings were sought together with similar alterations and additions to the existing already extended dwelling onsite.
- 8.12. The Board in its given reasons and considerations for ABP-307225-20 raised concerns with the access arrangements of the proposed development on users of the pedestrian laneway and vehicular traffic on Copeland Grove. They considered that the proposed development would give rise to an unacceptable conflict between vehicle traffic and pedestrian users as well as would endanger public safety by reason of a traffic hazard.
- 8.13. I also note the extensive planning history of the site for various other forms of residential development from that refused by the Planning Authority under P.A. Ref. No. 3053/18; P.A. Ref. No. 2856/19 and more recently P.A. Ref. No. 3823/21 on the basis of traffic safety concerns relating to this restricted site in terms of access, and thereby failing to accord with the Development Plan provisions for developments on corner sites.
- 8.14. The latter I note related to a similar development which sought planning permission also for a detached single storey dwelling to the side of No. 52 Copeland Grove.
- 8.15. The Transportation Planning Division report sets out that the only substantial difference in relation to the now sought development and that previously refused under P.A. Ref. No. 3823/21. This I note was not appealed to the Board. The only substantive change with this current application is the provision of a turning circle to the front of the proposed dwelling and a more restricted in width 3.1m vehicle access

to serve both dwellings onto Copeland Grove at a point whereby the adjoin the aforementioned pedestrian laneway.

- 8.16. Concerns were raised in this report which I concur with in terms of the lack of detail provided for the proposed access ramp, separating wall and rail to the front of the host dwelling.
- 8.17. I also concur that the car parking provision for the existing dwelling to the required Development Plan standard of two spaces is not clearly depicted on the submitted drawings through to the drawings showing several cars above that required to meet the Development Plan standards to serve the proposed dwelling around the turning circle is of concern.
- 8.18. The drawings relating to the proposed development and the alterations to accommodate access to the existing dwelling do not clearly show that car parking on site would be managed within the design and layout submitted with this application. There are also conflicting details in relation to how car parking would be achieved on site in the design and layout shown in the submitted drawings. This adds in my view to the lack of clarity.
- 8.19. Moreover, I concur with the Transportation Planning Division that the proposed access ramp to serve the host dwelling would render the existing driveway inadequate due to its restricted and irregular dimensions for any vehicle parking and therefore this dwelling becomes dependent on off-street car parking to the rear of the site.
- 8.20. Further to this, the drawings submitted with this application do not clarify modifications to boundaries through to management of waste for the proposed development when operational as two separate dwellings. Particularly in terms of access for waste service providers on what already is a highly congested public domain. With this congestion arising from *ad hoc* car parking that I observed overspills in areas of the public domain onto the pedestrian footpath. In such circumstances, this further restricts the safe movement of two way traffic, alongside negatively impacts on the safe movement of vulnerable road users. Thus giving rise to traffic inconvenience and public road safety concerns.
- 8.21. The Transportation Planning Division in their report concludes with a recommendation for refusal. With this being as cited in Section 4.1.1 above.

8.22. I concur with their conclusion that the proposed development would similarly when compared with other previous developments sought on this site has failed to demonstrate compliance with Section 16.10.9 of the Development Plan and that the proposed development would not give rise to any road safety and/or road traffic hazard for existing road users at the end of this highly congested and restricted cul-de-sac of Copeland Grove.

8.23. Appropriate Assessment

8.23.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.24. Other Matters Arising

- 8.24.1. **Undesirable Precedent:** The Planning Authority's reason for refusal includes concerns that the proposed development has the potential to give rise to an undesirable precedent which would in themselves and cumulatively give rise to an undesirable precedent. In relation to this concern, I consider that each development should be considered on its merits and that the concerns relating to the proposed developments failure to demonstrate that it accorded with the criteria for corner site development as set out under Section 16.10.9 of the Development Plan is substantive reason in itself to warrant the refusal of planning permission in this case.
- 8.24.2. **Procedural Matters:** A number of procedural matters are raised by the observers in this appeal case which are outside of the Boards remit to determine in its consideration of this appeal case.

9.0 **Recommendation**

9.1. I recommend that permission be **refused**.

10.0 Reasons and Considerations

1. Having regard to the characteristics of the application site, the proposed access route serving the new house, and general traffic flow and management in a

constrained area, the proposed development would be contrary to Section 16.10.9 of the Dublin City Development, 2016-2022, with respect to corner/side garden sites, by reason of the proposed development represents an inappropriate form of development, which would create an unacceptable conflict between vehicle traffic and pedestrian users due to the substandard design and layout, and would therefore endanger public safety by reason of a traffic safety. The proposed development, would, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young Planning Inspector

21st day of September, 2022