



An
Bord
Pleanála

Inspector's Report ABP-314067-22

Development

Construction of a two-storey end of terrace 3-bedroomed dwelling to side of existing dwelling. Shared vehicle entrance and two separate car parking spaces provided to front garden. Boundary wall to front garden and new boundary wall to rear garden to separate dwellings. New dwelling is stepped with two storey elements to side and rear. All associated site works included in this application

Location

54, Swans Nest Avenue, Kilbarrack, Dublin 5

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3152/22

Applicant(s)

Niall Bentham

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)	Thomas Macken
Observer(s)	Marian O'Connor Susan Quinn
Date of Site Inspection	06/12/2022
Inspector	Lorraine Dockery

1.0 **Site Location and Description**

- 1.1 The subject site comprises a two-storey, end-of-terrace dwelling located to the north-west side of the turning island to Swan's Nest Avenue.

2.0 **Proposed Development**

- 2.1. Permission is sought for construction of two-storey, three-bed, end of terrace dwelling house to side of that existing, shared vehicular access, two separate parking spaces, new boundaries and associated site works.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority GRANTED permission, subject to 12 standard conditions

Further Information was requested by the planning authority in relation to impact on character of No. 54 and adjoining terrace; form, design, height and scale; separation distances.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The main points of the planner's report include:

- Subject to compliance with conditions, the proposed development would not seriously injure the residential amenities of neighbouring dwellings or the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.
- Recommends grant of permission

3.2.2. Other Technical Reports

Transportation Planning Division- no objections, subject to conditions

Drainage Division- no objections, subject to conditions

4.0 Planning History

5981/07

Permission REFUSED for the construction of two no. semi-detached dwellings (one single storey and one two-storey) and associated works in side garden. The reasons for refusal related to by way of design, plot size, excessive size, substandard access arrangement and substandard private open provision, the proposal would be out of character with the adjoining properties, would set an undesirable precedent for similar development in the area, overdevelopment, injure amenities and contrary to proper planning and sustainable development

5.0 Policy and Context

5.1. Development Plan

The Dublin City Development Plan 2022-2028 is the operative City Development Plan.

Zoning- 'Objective Z1' which seeks 'to protect, provide and improve residential amenities'.

Section 15.13.3 Infill/Side Garden Housing Developments

5.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

5.3. EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The

need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the appeal are:

- Contrary of zoning objective and operative City Development Plan
- Constitutes over-development of site
- Traffic and parking concerns
- Residential amenity concerns- reduction in private open space, impacts on privacy, overlooking, loss of daylight/overshadowing, noise pollution

6.2. Planning Authority Response

Request An Bord Pleanála uphold their decision and that if permission is granted, a condition requiring the payment of a section 48 development contribution be applied.

6.3. Observations

Two observations were received- from Marian O'Connor, 233 Kilbarrack Road and from Susan Quinn, 231 Killbarrack Road. These observations may be summarised as follows:

- Excessive proposal for site; overlooking, impacts on sunlight/overshadowing; inadequate parking; noise pollution; future development of the site; clarity of drawings

6.4. Further Responses

None

7.0 Assessment

- 7.1. I have read all the documentation attached to this file including inter alia, the appeal, the report of the Planning Authority and the observations received, in addition to having visited the site. The primary issues, as I consider them, are (i) the impact on the visual and residential amenity of the area arising from the proposed development and (iii) traffic and parking matters.
- 7.2. I note that the proposal was amended by Further Information received by the planning authority on the 30th May 2022 and it is this revised proposal on which I am undertaking this assessment.
- 7.3. I highlight to the Board that a new City Development Plan was adopted, since the issuing of the planning authority decision.

Policy Context

- 7.4. Section 15.13.3 of the operative City Development Plan sets a generally favourable policy towards development for infill/side garden development, subject to compliance with normal planning criteria. I consider the proposal to be substantially in compliance with this section of the operative City Development Plan.

Visual Amenity

- 7.5. In terms of visual amenity, I am generally satisfied with the design approach put forward in this instance. I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the amenities of the area. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the operative City Development Plan in this regard.

Residential Amenity

- 7.6. In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. In my opinion, separation distances typical of what would normally be anticipated within such an established, urban area are proposed with existing properties. This will ensure that any impacts

are in line with what might be expected in an area such as this. The proposed house would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission. There is an acknowledged housing crisis and this is a serviceable site, in an established city area, where there are adequate public transport links, services, facilities and employment in close proximity.

- 7.7. In designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. I have had regard to the guidance documents referred to in the Ministerial Guidelines and the Dublin City Development Plan to assist in identifying where potential issues/impacts may arise. I consider any potential impacts to be reasonable, having regard to the need to provide new homes within an area identified for residential development/compact growth, and increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical.
- 7.8. Adequate private open space is proposed for both the existing and proposed dwellings, to comply with Development Plan standards. I note that the proposed dwelling complies with the operative Development Plan in terms in internal standards. Given the urban location of the site and its domestic setting/landscaping, I consider that impacts on flora and fauna would not be so great as to warrant a refusal of permission.
- 7.9. Concerns raised in relation to noise pollution are noted. I acknowledge that there may be some noise disruption during the course of construction works. Such disturbance or other construction related impacts is anticipated to be relatively short-lived in nature. A condition should be attached to any grant of permission regarding construction hours. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed.
- 7.10. Concerns raised in relation to the future development of the lands are outside the remit of this planning appeal. I can only assess the proposal before me, as contained in the documentation and advertised in the public notices.

Traffic and Parking Matters

- 7.11. I note the concerns raised in the appeal with regards to this matter. I am not unduly concerned in this regard. Given the limited scale of the proposed development (one additional dwelling), I would not anticipate it to lead to the generation of significant volumes of traffic. In-curtilage parking is proposed. The proposal is substantially in compliance with Development Plan standards in this regard and the Transportation Division of the planning authority have no objections to the proposal, subject to conditions.
- 7.12. I am generally satisfied in this regard and have no information before me to believe the proposal would lead to the creation of a traffic hazard or obstruction of road users.

Conclusion

- 7.13. Having regard to the limited extent, height and design solution put forward, I am satisfied that the proposed development is in accordance with the zoning objective of the City Development Plan, which seeks 'to protect provide and improve residential amenities', is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

8.0 Appropriate Assessment Screening

- 8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 Recommendation

- 9.1. I recommend permission be GRANTED subject to conditions.

10.0 Reasons and Considerations

Having regard to the pattern of development in the area and its residential zoning under the Dublin City Development Plan 2022-2028, and to the standards for the development of infill/side gardens set out in section 15.13.3 of that Plan, it is considered that, subject to compliance with conditions below, the proposed house would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

11.0 Conditions

1.	<p>The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on the 30th day of May 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>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>Reason: In the interest of visual amenity.</p>
3.	<p>(i) The window shown to the bathroom at first floor level shall be permanently comprised of obscure glazing</p> <p>(ii) The flat roof element of the proposed development shall not be used for recreational purposes and shall only be accessible for the purposes of a fire emergency or for maintenance</p>

	Reason: To protect the residential amenity of adjoining properties
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p>Reason: In the interests of visual and residential amenity.</p>
6.	<p>Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
7.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p>Reason: In the interests of public health</p>
8.	<p>The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters</p> <p>Reason: In the interests of public safety</p>
9.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area</p>

10. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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

Lorraine Dockery
Senior Planning Inspector

14th December 2022