



An  
Bord  
Pleanála

## Inspector's Report ABP-314606-22

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<b>Development</b>	Construct new 2 bedroom L shaped bungalow in side garden of existing dwelling together with revised vehicular front entrance, new pedestrian entrance and provision of new off street car parking space
<b>Location</b>	76A, Cappagh Avenue, Finglas, Dublin 11
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4308/22
<b>Applicant(s)</b>	Thomas Doyle & Gary Holohan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Thomas Doyle & Gary Holohan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20/02/2023

**Inspector**

Lorraine Dockery

## **1.0 Site Location and Description**

- 1.1. The subject site is located within a mature residential area on the corner of Cappagh Avenue and Barry Drive, Finglas, Dublin 11. It comprises a corner site located to the side/front of No. 76A Cappagh Avenue (an infill house built under Plan No. 2126/03). The site is currently under grass.

## **2.0 Proposed Development**

- 2.1 Permission is sought for the construction of a two-bedroom bungalow in the side garden of an existing dwelling, together with revised vehicular front entrance, new pedestrian entrance and provision of new off-street car parking space.
- 2.2 The proposed floor area is stated as being 72m<sup>2</sup>

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission REFUSED for one reason, as follows:

1. Having regard to the Z1 zoning objective of the area 'To protect, provide and improve residential amenities', the constricted nature and prominent location of the site, the high visibility of the proposed dwelling as viewed along Cappagh Avenue, the proposed development would: result in a significant break of the established front building line on Cappagh Avenue; reduce the openness of the street at this corner; and constitute an incongruous form of development that will not successfully integrate into the established streetscape. The proposed development would, therefore seriously injure the visual amenity of the area and the amenities of property in the vicinity, be contrary to Section 16.10.9 of the City Development Plan 2016 -2022 and be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The main points of the planner's report include:

- Having regard to the restricted nature of the site, the significant breaking of the building line, along with the overall visibility of the dwelling along Cappagh Avenue, and proximity of the dwelling to the boundary to the east, the undesirable precedent this proposal would set for other similar sites in the area, refusal of permission recommended

### 3.2.2 Other Technical Reports

Drainage Division- No objections, subject to conditions

Roads and Traffic Planning Division-No objections, subject to conditions

## 3.3 Prescribed Bodies

None

## 4.0 Planning History

3480/22

Permission REFUSED for the construction of a new 2 bedroom bungalow in side garden of existing dwelling together with revised front vehicular entrance, new pedestrian entrance and provision of new off street car parking space.

The reasons for refusal related to the constricted nature of the site, the high visibility of the proposed dwelling as viewed along Cappagh Avenue, the unacceptable close proximity with the neighbouring party boundary to the east, together with the proposed height and design, and the breaking of the established front building line in addition to the shortfalls in the aggregate living area and storage provision, coupled with the substandard quality of the rear garden serving the dwelling.

4574/18

Permission REFUSED for the construction of new 2 storey, 3 bedroom detached house in side garden of existing dwelling together with revised front entrance and provision of new off street parking spaces.

The reasons for refusal related to the positioning of the dwelling forward of the established building line along Cappagh Avenue, the presentation of a two-storey, blank and long gable onto Cappagh Avenue, and its negative relationship with adjoining dwellings in addition to the unacceptably low level of residential amenity for future occupants of the proposed dwelling.

Adjoining site within applicant's ownership

2126/03

Permission GRANTED for two-storey three bedroomed house in side garden to match existing house (76 Cappagh Avenue) together with new off street parking space in front garden and retention of existing parking bay for proposed new house

## 5.0 **Policy and Context**

### 5.1 **Development Plan**

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

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

15.5.2 Infill Development

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

An appeal was received on behalf of the first party, which may be broadly summarised as follows:

- Proposal supported by precedents and pattern of development in the area
- Consistent with zoning objective, Development Plan policy and national policy in relation to densification and infill development
- Meets all relevant planning and Development Plan standards

### 6.2 Planning Authority Response

None

### 6.3 Observations

None

### 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 submission and the report of the Planning Authority, in addition to having visited the site.
- 7.2 The primary planning issues, as I consider them, are (i) planning history and policy context and (ii) impact on the visual and residential amenity of the area arising from the proposed works.
- 7.3 I highlight to the Board that a new City Development Plan has been adopted, since the decision of the planning authority issued.

### Planning History and Policy Context

- 7.4 I highlight to the Board that applications for a dwelling on this site were previously refused permission by the planning authority (see planning history above), however it would appear that none were appealed to An Bord Pleanála. I note permission was refused on appeal for an additional dwelling at 82 Casement Drive and 2a Plunkett Road (ABP-306747-20), which is a short distance from the site. I consider the circumstances of that site to be different from that currently before me.
- 7.5 The zoning of the site is 'Objective Z1' which seeks 'to protect, provide and improve residential amenities'. Residential development is acceptable in principle under this zoning objective. I consider the proposed development to be in accordance with the zoning objective for the site.
- 7.6 Section 15.13.3 'Infill/Side Garden Housing Developments' of the operative City Development Plan sets a generally favourable policy towards development on such sites, 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. In terms of national policy, I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas.

## Visual and Residential Amenity

- 7.7 The reason for refusal which issued from the planning authority stated that having regard to the Z1 zoning objective of the area, the constricted nature and prominent location of the site, the high visibility of the proposed dwelling as viewed along Cappagh Avenue, the proposed development would: result in a significant break of the established front building line on Cappagh Avenue; reduce the openness of the street at this corner; and constitute an incongruous form of development that will not successfully integrate into the established streetscape. The proposed development would, therefore seriously injure the visual amenity of the area and the amenities of property in the vicinity, be contrary to Section 16.10.9 of the City Development Plan 2016 -2022 and be contrary to the proper planning and sustainable development of the area.
- 7.8 The main issue of concern, as I see it, are impacts on the visual amenity of the area by virtue of the proposal to significantly break the existing building line at this location. The subject site forms part of the front garden area of No. 76A Cappagh Avenue, itself an infill dwelling permitted by the planning authority. I would consider the subject site to be a somewhat residual piece of land, with the main area of private open space for No. 76A located to its rear. The site is forward of the established front building line and is presently maintained as a grassed area. Any development thereon will, without doubt, significantly break the existing building line that exists. The site is located at a prominent position at the junction of Cappagh Avenue and Barry Drive and the proposed development, if constructed, would be most visible when viewed from Cappagh Avenue. When estates such as this were constructed, a strong front built line was a prominent feature of their design and layout and in the case of this particular area, corner sites were left undeveloped and open. Over time the building line has become less strong, with developments (primarily dwellings) permitted in side garden areas, making appropriate use of underutilised sites within serviced, urban areas.
- 7.9 Local and national policy generally encourages the appropriate development of appropriate underutilised sites in serviced built-up areas. In this instance, I note the weak corner presented at the junction of Cappagh Avenue and Barry Drive. I note the underutilised, residual nature of the subject site. I fully acknowledge that any development on this site will break the established building line along this side of



Cappagh Avenue, however I note that this building line has been broken elsewhere in the immediate vicinity, including on the site immediately opposite (to the west). I do not have issue with the reduction in openness of the street at this corner, as cited in the planning authority refusal. I consider that given the limited scale of the dwelling, in particular its low rise nature, that it has the potential to book-end this terrace and provided a stronger, more urban edge to the junction than currently exists. In my opinion, the proposal provides the opportunity to provide an additional dwelling in an urban, serviced area close to schools, public transport and retail facilities without excessive detriment to the visual amenities of the area. I acknowledge that a grant of permission on this site may set a precedent for other similar developments on similar such sites, including that immediately opposite on Barry Drive, however, without prejudice to any future application on that site, a mirroring effect on the site opposite may further enhance this book-ending. Notwithstanding this, I note that every application is assessed on its own merits.

- 7.10 Given the low rise nature of the proposed development, 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. The proposal may be considered to be out of character with existing development in the vicinity, however I do not consider this to be a negative nor do I consider that the proposal represents over-development of the site. Impacts on the streetscape would not be so great as to warrant a refusal of permission. I am satisfied that the proposed development can aid in the densification of this area, can provide a property type that is currently not well catered for and provide a stronger edge to this corner. This is an area that would benefit from some rejuvenation and I consider the proposal to be in accordance with the operative County Development Plan and national policy guidance in terms of densification of well serviced urban areas and the appropriate development of infill sites.

#### Residential Amenity

- 7.11 In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. I note the low rise nature of this single storey dwelling and the separation distances proposed. Having examined the proposal, I am of the 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. Given the height and design of the proposed dwelling, I am of the opinion that 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.

- 7.12 Adequate private open space is proposed for both the existing and proposed dwellings, to comply with Development Plan standards. I am of the opinion that good quality, private open space is provided to the rear and side of the proposed dwelling, in compliance with Development Plan standards. I note that the proposed dwelling complies with the operative Development Plan in terms in internal standards.

#### Conclusion

- 7.13 The subject site is zoned 'Objective Z1' in the operative City Development Plan with 'residential' being a permissible use. I consider the proposal to be in compliance with the zoning objective for the site and relevant sections of the operative City Development Plan.
- 7.14 Having regard to all of the above, I consider that the proposed development is in accordance with the provisions of the operative City Development Plan, 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.

## 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 corner/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, would provide an adequate standard of residential amenity to future occupiers 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.	The development shall be carried out in accordance with the plans and particulars lodged with the application, 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.  <b>Reason:</b> In the interest of clarity
2.	Details of the materials, colours and textures of all the external finishes to the proposed dwelling, including boundary treatments, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

	<b>Reason:</b> In the interest of visual amenity.
3.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
4.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
5.	<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><b>Reason:</b> In the interest of public health and surface water management.</p>
6.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p><b>Reason:</b> In the interests of public health</p>
7.	<p>The developer shall comply with all requirements of the planning authority in relation to transport and traffic matters</p> <p><b>Reason:</b> In the interests of public safety</p>
8.	<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, as amended. The contribution shall be paid</p>

<p>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.</p> <p><b>Reason:</b> 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</p>
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Lorraine Dockery  
Senior Planning Inspector

23<sup>rd</sup> February 2023