



An
Bord
Pleanála

Inspector's Report

ABP-314936-22

Development	Subdivision of site and provision of single storey infill dwelling
Location	Ketelby Mews, 40 Howth Road, Sutton, Dublin 13, D13 C3F2
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0125
Applicant(s)	Barry and Kathy O'Donnell
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Alex and Shahla Thompson
Observer(s)	None
Date of Site Inspection	22 nd May 2023
Inspector	Bernard Dee

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1.0 Site Location and Description

- 1.1. The appeal site is located in the rear garden area of No. 40 Howth Road, Sutton – Ketelby Mews on the north side of the R105 Howth Road, east of Sutton cross and north-east of Dublin City Centre and has a stated area of 0.18ha.
- 1.2. The site is comprised of a detached bungalow dwelling and the attendant garden, with the dwelling which is the subject of this appeal proposed to be located in the rear garden area to the north of the existing dwelling on site. The overall plot of No. 40 Howth Road measures approx. 100m in length and approx. 18m in width. The site is accessed from Howth Road and there is a parking area to the front of the existing dwelling.
- 1.3. There are a number of backland houses in the area, both east and west of the site – Nos. 36A, 37A, 39A, 42A and 43A. Sutton Golf Club adjoins the site to the north where this section of the golf course is comprised of bushes and trees.
- 1.4. During the site on 22nd May 2023 visit it was noted that the rear garden of No. 40 is quite extensive and has sufficient depth and width to accommodate a dwelling unit. I also took the opportunity to visit the appellant's property which is located immediately east of the appeal site.

2.0 Proposed Development

- 2.1. The development will consist of the sub division of the appeal site and the provision of a single storey, four-bedroom infill dwelling to the rear of Ketelby (No. 40 Howth Road). Amendments to the exiting boundary treatment to the side and rear of the site are also proposed as are 2 no. parking spaces to serve the proposed dwelling. Landscaping, connection to utilities and all ancillary site works are also proposed.
- 2.2. From the drawings submitted as Further Information on 19th August 2022, a four bedroom dwelling unit of contemporary design is proposed with the various rooms ranged around a central landscaped courtyard. The single storey flat roofed structure is of contemporary design with a maximum height of approx. 7m and a footprint of approx. 13m x 20m. the proposed floor area is 179m².

- 2.3. The east elevation (facing No. 41, the Third Party appellants) has two opes - an opaque bathroom window and a high level (approx. 1.8m cill height) which provides light to a living room area. A 1.8m post and panel fence with planting is proposed for the east, north and west boundaries while a 1.8m stone finish boundary wall is proposed to the south facing the existing dwelling on the site.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was granted on 28th September 2022 subject to 17 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two Planner's Reports on file, the first one dated 26th April 2022 and the second following the receipt of Further Information is dated 28th September 2022 and subsumes the earlier report.

In summary, the main issues addressed by these reports are as follows:

- Residential use is permitted in principle under the RS zoning objective and that generally the development of underutilised infill sites is encourage by the Planning Authority subject to the protection of existing residential amenities.
- Regarding the site layout and design, the Planner's Report notes that the proposed dwelling is very close to the eastern boundary of the site and does not follow the established backland development building line.
- The Planner's Report queries whether or not the 75m² of private amenity space could be provided by the proposed design and noted that narrow strips of space to the east, north and west of the dwelling do not qualify in calculating the quantum of private amenity space.
- The Planner's Report notes that additional information is requested by Irish Water relating to the connection to the 225mm foul sewer in the rear garden areas of the housed on the north side of Howth Road.

- No issues were raised in the Planner's Report regarding flood risk or parking provision and access arrangements.
- The Planner's Report screened out the need for AA or EIA.

Further Information was requested on the 28th April 2022 in relation to the following six items:

- Applicant to submit a pre-connection enquiry to Irish Water in respect of the proposed water supply and foul sewer arrangements for the proposed dwelling.
- The applicant is to submit a revised site layout drawing showing compliance with the Development Plan requirement of providing 75m² of private amenity space to the front (south) of the proposed dwelling.
- Revised boundary treatment details to the boundary with No. 39A to the west of the site.
- Evidence that the habitable rooms proposed along the western wing of the proposed dwelling will receive sufficient daylight in accordance with Development Plan requirements.
- Revised plans showing the relocation of the rear (north) building line to match the other infill developments and also to move the proposed dwelling further from the eastern boundary of the site (boundary with No. 41).
- Clarification to be submitted regarding the height of the proposed eastern boundary wall and details of the retention proposals for the existing hedge along this boundary.

The Planning Report dated 28th September 2022 expressed satisfaction with the FI received on the 19th August 2022 and recommended a grant of permission subject to conditions.

3.2.2. Other Technical Reports

- The Parks and Green Infrastructure Section had no objection to the proposed development subject to conditions being imposed relating to the proposed landscaping and the reduction in height of the boundary walls.

- The Water Services Section replied that there was no objection to the proposed development with respect to surface water or flooding.
- The Transportation Section had no objections to the proposed development subject to appropriate conditions.

3.2.3. Prescribed Bodies

- Irish Water had no objection to the proposed development subject to compliance with a standard condition and also that a pre-connection enquiry is made to Irish Water as there is a difference in the location of an existing foul sewer traversing the site between the application drawings and Irish Water records.

3.2.4. Observations

An observation was made at application stage by the current appellants. The issues raised are, generally, the same as the grounds of appeal.

4.0 Planning History

4.1. On the Appeal Site (No. 41 dwelling)

- Ref. F20A/0327: permission granted to modifications to Ref. F19A/0089 for the demolition of western extension, creation of a road to access the rear garden, demolition and extension works, façade modifications and the provision of a gate to the west side of the house.
- Ref. F19A/0089: permission granted for the widening of the existing vehicular entrance, demolition and extensions to the rear, additional rooflights, modifications to the façade and all landscaping and ancillary works.
- Ref. F94B/0420: permission granted for sun lounge extension to side.

4.2. In the Vicinity of the Site

- Ref. F15A/0315, Ref. F04A/0967, Ref. F03A/1315 and Ref. F96A/0121 relate to grants of permission for backland residential development in the immediate vicinity of the appeal site.

5.0 Policy and Context

5.1. Development Plan

The site is zoned Objective RS - Provide for residential development and protect and improve residential amenity, where the vision is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity in the Fingal Development Plan 2023-2029 is the statutory plan for the area.

Policy CSP12 (and Policy SPQHP38) – NPF and RSES - Promote compact growth in line with the NPF and RSES through the inclusion of specific policies and targeted and measurable implementation measures that: - Encourage infill / brownfield development.

3.5.13 Compact Growth, Consolidation and Regeneration - The Council, in line with national and regional planning policies and objectives seeks to promote the regeneration of Fingal's towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and increased housing options. This may be achieved in several ways and by projects of varying scale including small residential extensions, subdivision of large gardens to accommodate infill development and where appropriate, backland development opportunities.

Objective SPQHO37 – Residential Consolidation and Sustainable Intensification
Promote residential consolidation and sustainable intensification at appropriate locations, through the consolidation and rejuvenation of infill/brown-field development opportunities in line with the principles of compact growth and consolidation to meet the future housing needs of Fingal.

Objective SPQHO39 – New Infill Development
New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

Objective SPQHO42 – Development of Underutilised Infill, Corner and Backland Sites
Encourage and promote the development of underutilised infill, corner and

backland sites in existing residential areas subject to the character of the area and environment being protected.

Table 14.4: Infill Development

Infill Development
<p>Infill Development presents unique opportunities to provide bespoke architectural solutions to gap sites and plays a key role in achieving sustainable consolidation and enhancing public realms.</p> <p>Proposals for infill development will be required at a minimum to:</p> <ul style="list-style-type: none"> ➔ Provide a high-quality design response to the context of the infill site, taking cognisance of architectural form, site coverage, building heights, building line, grain, and plot width. ➔ Examine and address within the overall design response issues in relation to over-bearance, overlooking and overshadowing. ➔ Respect and compliment the character of the surrounding area having due regard to the prevailing scale, mass, and architectural form of buildings in the immediate vicinity of the site. ➔ Provide a positive contribution to the streetscape including active frontage, ensuring that the impacts of ancillary services such as waste management, parking and services are minimised. ➔ Promote active street frontages having regard to the design and relationship between the public realm and shopfronts of adjacent properties.

14.8.1 Floor Areas - The minimum size of habitable rooms for houses shall conform with dimensions as set out in Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities 2007 or the appropriate National Guidelines standards in operation at the date of lodging the application for planning permission. See Table 5.1 below.

Table 5.1: Space provision and room sizes for typical dwellings

DWELLING TYPE	TARGET GROSS FLOOR AREA (m ²)	MINIMUM - MAIN LIVING ROOM (m ²)	AGGREGATE LIVING AREA (m ²)	AGGREGATE BEDROOM AREA (m ²)	STORAGE (m ²)
4BED/7P House (1 storey)	100	15	40	43	6

14.10.1 Corner/Infill Development - The development of infill housing on underutilised infill and corner sites in established residential areas will be encouraged where proposals for development are cognisant of the prevailing pattern of development, the character of the area and where all development standards are observed. While recognising that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill, such development provides for the efficient use of valuable serviced land and promotes consolidation and compact growth. Contemporary design is encouraged

and all new dwellings shall comply with Development Plan standards in relation to accommodation size, garden area and car parking.

Objective DMSO26 – Separation Distance between Side Walls of Units Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units. (Note: This separation distance may be reduced on a case-by-case basis in relation to infill and brownfield development which provides for the regeneration of under-utilised lands and subject to the overall quality of the design and the schemes contribution to the streetscape. A statement demonstrating design mitigation and maintenance arrangements shall be submitted in such cases)

Objective DMSO31 – Infill Development New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

Table 14.8: Private Open Space for Houses

House type	Minimum open space
3 bedrooms or less	60 sq. m.
4 or more bedrooms	75 sq. m.

Land Use Category	Zone 1: Developments within 800m of a high-quality bus service, or 1600m of an existing or planned Luas/DART/Metro Rail station or in lands zoned Major Town Centre***		Zone 2: All other areas	
Residential				
Residential (1-2 Bedroom)	0.5	Max	1 plus 1 visitor space per 5 units	Norm
Residential (3-3+ Bedroom)	1	Max	2 plus 1 visitor space per 5 units	Norm

Objective GINHO59 – Development and Sensitive Areas Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area.

New development in highly sensitive areas shall not be permitted if it:

- Causes unacceptable visual harm.
- Introduces incongruous landscape elements.
- Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements.

5.2. Natural Heritage Designations

The following natural Heritage designations are located approximately 130m to the north of the appeal site:

- Baldoyle Bay SAC – 000199.
- pNHA Baldoyle Bay– 000199.

Baldoyle Bay SPA – 004016 is located approx. 320m to the north-west of the appeal site.

6.0 The Appeal

6.1. The grounds of appeal are as follows:

- The proposed dwelling would, by virtue of its scale, height, design and close proximity (1.4m) to the eastern boundary of the appeal site, compromise the privacy of the appellants (owners of No. 41), constitute an overbearing visual presence, would cause significant loss of sunlight and daylight, would interfere with the outlook from the appellant's property and lead to a loss of residential amenity.

- The proposed development would be out of character with the established pattern of development in the area where all the dwellings constructed in the rear garden areas are centrally positioned.
- The proposed development will compromise the residential amenity of any future dwelling constructed in the rear garden area of No. 41 by reason of the shadow predicted to be cast by the proposed dwelling. The Third Party submit a Shadow Study by Goodwin + Lee Architects in support of this ground of appeal.

6.2. Applicant Response

The response of the First Party is, in summary, as follows:

- Objective DMS29 of the Fingal Development Plan 2017-2023 requires that a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units (now Objective DMS029 of the Fingal Development Plan 2023-2029 with the same 2.3m separation requirement) and a set-back of 1.4m has been provided with the eastern boundary of the appeal site – shared boundary of the appellant’s property.
- There is no dwelling located on the adjacent plot to the east of the appeal site and the proposed development would not compromise the future residential development potential of the appellant’s rear garden site.
- There is ample precedent for rear garden residential development in the immediate vicinity of the appeal site.
- The proposed dwelling has been oriented to maximise the amenity of future occupants by western light penetration and the appellant’s fail to appreciate this orientation in response to site specific conditions.
- The appellant’s reference both planning precedent in the area and Development Plan objectives which are irrelevant to the appeal case.
- The development of a dwelling in the rear garden of No. 38 Howth Road (to the west of the appeal site), Ref. 15A0315, also has a 1.4m set-back from the eastern boundary of that site.

- The Objective NH36 (now Objective GINHO59) is not relevant as the appeal site is not of any special ecological or scenic value and this Objective is therefore irrelevant.
- The proposed development fulfils Objectives PM44 and PM45(now Objectives SPQHO42 and SPQHO43) of the Development Plan with regard to developing an underutilised infill site and the use of an innovative design solution to respect the character of the area.
- The appellant's reference to the close proximity of the existing Nos. 40 and 41 is not relevant to the determination of this appeal case.
- The eastern elevation of the proposed dwelling has been designed to prevent overlooking of the appellant's property while providing some visual interest through the introduction of clerestory windows in the revised design submitted as Further Information to the Planning Authority.
- There was no mandatory requirement for a shadow analysis to be submitted for a single storey dwelling.
- Moving the proposed houses westward would unacceptably impact on the amenity of the proposed houses.

6.3. The Planning Authority response is as follows:

- The application was assessed against the relevant Development Plan policies and objectives and existing government guidance as well as the potential impact on neighbours and the character of the area.
- Concerns raised by the appellant were addressed during the determination of the application and the Planning Authority is satisfied that the proposed development should not have an adverse impact on the residential amenity of adjoining properties.
- There is precedent in the area for the development of houses in the rear garden areas.
- The proposed development is consistent with the proper planning and sustainable development of the area.

6.4. Observations

None received.

6.5. Further Responses

Not applicable.

7.0 **Assessment**

Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

The main issues, therefore, are as follows:

- Principle of development.
- Impact on residential amenity.
- Visual impact.
- EIA screening.
- AA Screening.

7.1. Principle of Development

Having regard to the residential zoning of the area where the appeal site is located, the County Development Plan policy to support higher residential densities in serviced urban areas and the planning history of the wider area, I conclude that the proposed development is acceptable in principle.

7.2. Impact on Residential Amenity

- 7.2.1. The appellant states that the proposed development will give rise to overshadowing of his property and has include a shadow analysis supporting this point. The shadow analysis submitted by the appellant is noted. Having regard to the orientation of the application site relative to the appellant's property, the single storey nature of the proposed house, the separation distance off the boundary with the appellants property I conclude that the proposed development would not seriously injure the residential amenity of the property by overshadowing it. Furthermore, having regard

to these factors, I conclude that the proposed development will not adversely impact the level of daylight experienced in the appellant's property in a manner as to seriously injure the residential amenity of that property.

- 7.2.2. To "centralise" the proposed development as suggested by the Third Party would have a negligible impact on the shadow cast, which is not significant regarding the current location proposed for the dwelling, but would have an adverse impact on the quality of light enjoyed by the habitable rooms in the west wing of the proposed dwelling. Any future development to the rear of No. 41 will have to adapt any design of a proposed dwelling to the development context as the applicants for No. 40 have done.
- 7.2.3. I conclude, subject to the conditions drafted below, that the proposed development will not have an adverse impact on the residential amenity of the appellants property nor compromise its future development potential.

7.3. Visual Impact

- 7.3.1. The context within which it is proposed to construct this dwelling is not an Architectural Conservation Area or in proximity to Protected Structures.
- 7.3.2. From the drawings submitted as Further Information on 19th August 2022 the eastern boundary of the site is proposed to be in the form of a 1.8m high post and panel fence requiring the removal of the existing hedge and its replacement with new planting. This post and panel fence supersedes the proposed 2.39m wall with rendered finish as proposed in the original application drawings submitted to the Planning Authority on 14th March 2022. I consider that the post and panel fence with replanting is a reasonable boundary treatment and a significant improvement on the original proposal and that therefore the concerns of the appellants have been addressed by this design revision.
- 7.3.3. Generic reference is also made to the impact on "outlook" but there are no viewpoints indicated in the appeal submission to clarify this issue. In any event, there are no protected or designated scenic views in the appeal site area and therefore there is no right to a view or "outlook" in this instance.
- 7.3.4. I conclude therefore that the proposed development would not seriously injure the residential amenity of adjoining property or the visual amenity of the area.

7.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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.

7.5. AA Screening

Having regard to the relatively minor development proposed within an existing housing estate and the distance from the nearest European site being approximately 2km, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission be granted for the reasons and considerations set out below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal County Development Plan 2023-2029, including the zoning objective for the site ('RS – Residential'), which seeks to provide for residential development and protect and improve residential amenity; it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity, would provide an acceptable standard of amenity for future residents, and be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 14th March 2022 as amended by the further plans and particulars submitted on the 19th August 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. Reason: In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of visual amenity.</p>
3.	<p>The proposed boundary wall shall not exceed 2m in height and details of the materials, colours and textures of said wall and planting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of visual amenity and the protection of privacy.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services. Reason: In the interest of public health.</p>
5.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water. Reason: In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between</p>

	<p>0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.</p> <p>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.</p>

Bernard Dee
 Planning Inspector

24th May 2023