



An
Bord
Pleanála

Inspector's Report

ABP-315371-22

Development	Demolition of garage and construction of a house and all associated site works
Location	13 Talbot Downs, Castleknock, Dublin 15, D15 F66C
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW22A/0232
Applicant(s)	Eamon Byrne
Type of Application	Permission (s. 34)
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party (s. 37)
Appellant(s)	Eamon Byrne
Observer(s)	None
Date of Site Inspection	26 th April 2023
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is a corner plot located in Talbot Downs, an established residential estate in Castleknock, Dublin 15, south of the N3 and west of the M50. Castleknock train station lies c. 1.3km southwest of the site. The Royal Canal is c. 0.9km southeast and the River Tolka is c. 0.5km north of the appeal site, albeit to the north of the N3. The surrounding area is residential and the streetscape in the estate is characterised by detached and semi-detached houses of similar form and appearance.
- 1.2. The appeal site is flat and has a stated area of 0.013ha. It consists of a semi-detached single-storey garage with paved area to the front and garden to the rear. The attached house and remainder of its curtilage are in the applicant's control (outlined in blue). There are some mature trees to the front of the site, which is defined by a low red brick wall. This wall is stepped towards a higher screen wall along the northern boundary, beyond which lies the estate road with landscaped open space further north. A footpath and grass margin wraps around these boundaries. Streetlights and some trees are located in the grass margin. The eastern boundary is defined by a high boundary wall which is shared with a detached two-storey house to the rear (No. 12A Talbot Downs). The southern boundary is open to the adjoining house and undefined.

2.0 Proposed Development

- 2.1. Planning permission is sought to demolish the existing single-storey garage and replace it with a semi-detached two-storey house. The entrance would be shared with parking for 1 no. car to the front and private amenity space to the rear.
- 2.2. The existing garage is a hipped roof structure with a stated floor area of 30sq.m and a footprint of roughly 3.10m by 10.90m. The eaves height is illustrated as 2.40m. The garage includes a shower room and utility to the rear with internal access to the existing house. There is a large garage door to the front, slightly recessed with portico, and a window and door opening to the rear. Finishes match the existing house.
- 2.3. The proposed house has a stated floor area of 75sq.m and a footprint of roughly 4.40m by 10.75 which would require the demolition of part of the northern boundary wall. It has a hipped roof which ties into the roof of the existing house and requires the demolition of a chimney. The front wall would be flush with the existing house save

for a single-storey flat roof projection which would extend no further than the front porch of the adjacent house. The proposed house includes kitchen/dining and living rooms at ground floor and two-bedrooms at first floor. Window openings are located in all elevations, although limited to the upper floor of the gable end given it would form the new boundary wall. The proposed finishes would match the existing house.

- 2.4. Additional drawings were submitted as part of the appeal. They include minor revisions to the proposed house. The single-storey projection would be moved to the rear leaving the front elevation flush with the building line. The gable wall would be set inside the boundary wall and part demolition would no longer be required. The footprint is marginally reduced to 4.30m by 10.75m but the stated floor area is unchanged. The private amenity space has been reduced from 60sq.m to 50sq.m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to **refuse** permission for the proposed development on 28th November 2022 for the following reasons:

- 1. Having regard to the prominent corner location of the site, it is considered that the proposed development which is set forward of the established front building line and requires the removal of part of a side boundary wall along the public footpath and replacement with a gable wall, would represent an overbearing form of development which would be visually obtrusive and out of character with the pattern of development in the area, and would conflict with Objectives DMS29, DMS39 and DMS40 of the Fingal County Development Plan 2017-2023. The proposed development would represent an undesirable precedent for other similar development and would therefore be contrary to the proper planning and sustainable development of the area.*
- 2. There is an existing 225mm foul sewer alongside the property in Talbot Downs. Based on the information submitted, the Planning Authority is not satisfied that the proposed development can achieve the minimum separation distance required from this sewer or if this infrastructure can be diverted. In the absence of such information the proposed development is considered to be prejudicial to public*

health and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (25/11/22): Basis for the Planning Authority decision. It notes that residential use is permitted in principle on the subject zoning and underutilised and corner sites are generally encouraged subject to the protection of amenities, privacy and established character. In terms visual amenity impacts, it considers that the proposal is contrary to Objectives DMS29, 39 and 40 of the Development Plan with specific concerns relating to flank wall separation, overbearing impact of the new gable wall, visual impact on the streetscape and building line arising from the front projection, and recommends refusal on this basis. It does not raise any concerns regarding residential amenity, private amenity space, overlooking or overshadowing. In terms of traffic issues, it outlines concerns raised from the Roads Section including the requirement for a swept path analysis for parking, combined bin and bike storage to the front of the house, a defined boundary between the houses and any necessary 3rd Party consents, if required. In terms of water services, it notes the comments from Irish Water regarding the proximity of a 225mm foul sewer and given the lack of clarity in the information submitted. Refusal is also recommended on this basis. It notes that no AA/EIA issues arise.

3.2.2. Other Technical Reports

- Roads (15/11/22): Further Information requested.

3.3. Prescribed Bodies

- Irish Water (24/11/22): Further Information requested.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal site:

PA ref. FW22B/0005: Permission **refused** in March 2022 for conversion of the existing garage to a playroom and a first-floor extension over garage to consist of office and study-gym. The Planning Authority considered that the proposed development, by reason of its design, height and proximity to adjoining development, would not satisfactorily integrate with the existing dwelling and the established character and form of development in the area, would be visually obtrusive and have a significant negative visual impact when viewed from adjacent properties and the public road and would result in unacceptable overlooking of adjacent development, contrary to Objective DMS28 and PM46 and materially contravening the 'RS' zoning objective.

PA ref. F00B/0584: Permission **granted** in November 2000 for two-storey side extension etc.

4.2. Sites in the vicinity:

10 Talbot Downs

PA ref. FW22B/0093: Permission **granted** in November 2022 for attic conversion including change of roof profile with projecting dormer window and 1 no. roof light etc.

12A Talbot Downs

PA ref. FW20B/0079: Permission **refused** in August 2020 for a first-floor extension, and attic conversion etc. The Planning Authority considered that the proposal, by virtue of design and overlooking, would negatively impact on the amenities of property in the vicinity, depreciate the value of same and materially contravene Objective DMS28 and the zoning objective. It also considered that the dormer would be out of character with the existing house, and would not integrate with properties in the area, and would seriously impact on the visual amenities, contrary to Objective DMS41.

PA ref. F04A/1754: Permission **granted** in March 2005 for a two-storey house in the side garden of No. 12 Talbot Downs.

22 Talbot Downs

PA ref. FW21B/0066: Permission **granted** in July 2021 for single storey extension to side and rear, new rooflights and conversion of existing garage etc.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

5.1.1. The current Development Plan came into effect on 5th April 2023. The Planning Authority decision of 26th October 2022 was made under the previous Plan for the period 2017-2023. This appeal shall be determined under the current Plan.

5.1.2. The appeal site is zoned 'RS' Residential with a zoning objective to *'Provide for residential development and protect and improve residential amenity'*. Residential uses are amongst the development types 'permitted in principle' in this zoning.

5.1.3. The main objectives relevant to the proposal are set out under Chapter 3 (Sustainable Placemaking and Quality Homes), Chapter 11 (Infrastructure and Utilities) and Chapter 14 (Development Management Standards) of the Written Statement.

5.1.4. The following sections are relevant to the issues raised in this appeal:

- 11.5.1 – Water Supply and Wastewater
- 14.6.4 – Residential Standards
- 14.6.6.4 – Overlooking and Overbearance
- 14.8.2 – Separation Distances
- 14.8.3 – Private Open Space
- 14.10.1 – Corner/Infill Development
- 14.17.2.1 – Bicycle Parking and Residential Development
- 14.17.7 – Car Parking
- 14.20.12 – Waste Management

5.1.5. I consider the following objectives particularly relevant:

DMSO26 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)

DMSO28 Allow a reduced standard of private open space for one and two bedroom townhouses only in circumstances where a particular design solution is required such as to develop small infill/corner sites. In no instance will the provision of less than 48 sq m of private open space be accepted per house.

DMSO31 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.

DMSO32 Applications for residential infill development on corner/side garden sites will be assessed against the following criteria:

- Compatibility with adjoining structures in terms of overall design, scale and massing. This includes adherence to established building lines, proportions, heights, parapet levels, roof profile and finishing materials.
- Consistency with the character and form of development in the surrounding area.
- Provision of satisfactory levels of private open space to serve existing and proposed dwelling units.
- Ability to safeguard the amenities of neighbouring residential units.
- Ability to maximise surveillance of the public domain, including the use of dual frontage in site specific circumstances.
- Provision of side/gable and rear access arrangements, including for maintenance.
- Compatibility of boundary treatment to the proposed site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible.

- Impact on street trees in road-side verges and proposals to safeguard these features.
- Ability to provide a safe means of access and egress to serve the existing and proposed dwellings.
- Provision of secure bin storage areas for both existing and proposed dwellings.

IUO3 Ensure that all new developments in areas served by a public foul sewerage network connect to the public sewerage system and to comply with the requirements of the Uisce Éireann Foul Sewer specification (where applicable).

5.2. Natural Heritage Designations

5.2.1. None relevant.

5.3. EIA Screening

5.3.1. Having regard to the nature and small scale of the proposed development, which is for a single infill house within a fully serviced urban area, and its proximity to 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

6.1.1. A 1st Party appeal has been lodged by JMLD Architectural Services on behalf of the applicant, Eamon Byrne. The grounds of appeal can be summarised as follows:

- The applicant submits that the location of the proposal would lie substantially behind No. 12A Talbot Downs and would not appear unduly prominent or visually obtrusive. Any perceived prominence would be ameliorated by the existing trees within the grass margin flanking these properties.

- The applicant acknowledges that the removal of the boundary wall could detract from the character of the area and has indicated that he is amenable to its retention. Revised drawings have been submitted in this regard as detailed in para. 2.4.
- In respect of the 1st refusal reason and Objective DMS29, the applicant suggests that there is adequate space for maintenance as the gable wall would lie adjacent to the public domain.
- In respect of the 1st refusal reason and Objective DMS39, the applicant notes that the Planning Officer considered the proposal would read as an extension to the existing house through matching design and finishes. They respectfully suggest that the proposal complies with Objective DMS39 given the existing boundary wall will be retained.
- In respect of the 1st refusal reason, the applicant submits that the proposal substantially complies with Objective DMS40 and would tie in harmoniously with, and be subservient to, the existing house given its scale. It is suggested that there would be no undue impact on the amenities of the adjoining properties and the proposal takes advantage of the gable end, addressing the street and open space and providing some passive surveillance. The applicant has also revised the building layout in order to address concerns over the building line and suggests that the subsequent reduction in private amenity space to 50sq.m is within the tolerance of Objective DMS88.
- In terms of the Roads Section comments, it is highlighted that applicant owns the entire property and there are 3 no. cars permanently using the existing parking to the front without access or egress problems. It is suggested that a right of way could be extended the applicant's daughter in the event of a grant of permission.
- In respect of the 2nd refusal reason, the applicant advises that a 225mm foul line runs parallel to the side boundary wall at a distance of c. 1.2m. It is accepted that any works within the curtilage of the site can not undermine the foul sewer and any engineering details can be agreed with Irish Water.
- The applicant concludes that the proposal substantially complies with the Development Plan and would facilitate independent accommodation for his daughter and grandchild.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The proposal was assessed having regard to the 'RS' Residential zoning objective, relevant Development Plan objectives, the site location, the established pattern of development within the surrounding area, and the scale and design of the proposal and its relationship with adjoining residential development.
- It is respectfully requested that the decision of the Planning Authority be upheld.
- Provision should be made for a financial contribution should the appeal be allowed.

6.3. Observations

None.

7.0 Assessment

7.1. The Planning Authority's 1st refusal reason relates to an overbearing form of development which would be visually obtrusive and out of character with the pattern of development in the area due to its prominent corner location, projection forward of the building line and replacement of part of the side boundary wall with a new gable wall. This, they suggest, would be contrary to Objectives DMS29, DMS39 and DMS40 of the Fingal Development Plan 2017-2023 relating to flank wall separation distances; the height and massing of infill development; and general criteria for corner/side garden sites. The current Development Plan came into effect on 5th April 2023 and a similar policy approach is reflected in Objectives DMSO26, DMSO31 and DMSO32, as cited above. The 2nd refusal reason relates to concerns regarding the proximity of the proposal to a foul sewer line and this was considered prejudicial to public health.

7.2. Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Visual Amenity
- Public Health
- Traffic
- Appropriate Assessment

7.3. Visual Amenity

- 7.3.1. The applicant has submitted a revised proposal in response to the 1st refusal reason. It excludes the demolition of the side boundary wall which was of particular concern to the Planning Authority. I also note that the front elevation is now entirely flush with that of the existing house and established building line. I do not consider that any parties have been prejudiced and I am satisfied that the revisions can be considered.
- 7.3.2. Objective DMS29 relating to flank wall separation distances has since been replaced by Objective DMSO26 which includes the additional 'note' that the 2.3m minimum distance may be reduced on a case-by-case basis in relation to infill and brownfield development etc. subject to the overall quality of the design and contribution to the streetscape. Given the adjacent wall is a boundary wall, the applicant suggests that DMS29 doesn't strictly apply and indicates that there is adequate space for maintenance from the public domain. I am satisfied that Objective DMSO26 does apply as it relates equally to rear access for bin storage etc. but having regard to the above 'note' and revised proposal, I am satisfied that the flank wall separation distance can be reduced to zero in this instance subject to a bin storage area to the front.
- 7.3.3. As noted, the revised proposal ties into the eaves and ridgeline of the existing house and respects the height and massing of other houses in Talbot Downs. In terms of Objective DMS39, since replaced by Objective DMSO31, it appears to be common case between the parties that the proposed development would read as an extension to the existing house and I agree that with retention of the existing boundary wall, the proposed infill development demonstrates compliance with Objective DMSO31. In this regard, I do not consider the proposal represents an overbearing form of development.
- 7.3.4. The main assessment criteria for infill development on corner/side garden sites was detailed in Objective DMS40, since replaced and elaborated upon by Objective DMSO32, as cited above. As noted, the applicant submits that the proposal substantially complies with Objective DMS40 and would be harmonious with, and be

subservient to, the existing house given its scale, would cause no undue impact on the amenities of the adjoining properties and would take advantage of the gable end, providing some passive surveillance. It is noted that in order to address concerns over the building line, the private amenity space has been reduced from 60sq.m to 50sq.m and within the tolerance of Objective DMS88, since replaced with DMS028, whilst retaining a 22m separation distance with No. 12A Talbot Downs. I am satisfied that the proposal complies with the assessment criteria under Objective DMSO32 subject to restriction on the use of the flat roof projection to the rear as a balcony and provision of a bin store to the front. I also note that rear access is retained for the existing house.

- 7.3.5. I consider that the revised proposal has addressed Objectives DMS29, DMS39 and DMS40 of the Fingal County Development Plan 2017-2023, since replaced with Objectives DMSO26, DMSO31 and DMSO32 of the current Plan. In such circumstances, I do not consider the proposed development would represent an overbearing form of development which would be visually obtrusive and out of character with the pattern of development in the area. On balance, the benefits of the proposal, including those addressing a stated housing need, substantially outweigh any impacts, perceived or otherwise, on the visual amenity and character of the area.

7.4. Public Health

- 7.4.1. The 2nd refusal reason relates to concerns the Planning Authority had regarding the proximity of the proposal to a 225m foul sewer line in Talbot Downs. In the absence of information to prove otherwise, they were not satisfied that the separation distances could be achieved or if the sewer could be diverted. This was deemed to be prejudicial to public health notwithstanding the Irish Water comments which sought engagement with the applicant in order to ensure appropriate access during and post construction.
- 7.4.2. The revised proposal would be entirely within the curtilage of the existing house. The applicant indicates that the sewer is in the public domain at a distance of c. 1.2m from the side boundary wall. I do not consider access to the sewer will be impacted upon during or post construction. This can be conditioned in any event, and I am satisfied that the proposed development will not be prejudicial to public health.

7.5. Traffic

- 7.5.1. Whilst not considered as a sufficient reason for refusal, I do note the Planning Authority's concerns in respect of vehicular access. The applicant addressed these

concerns in their appeal submission and highlights the fact that the existing access arrangements already caters for 3 no. cars, which I observed during my site inspection.

- 7.5.2. I am satisfied that the revised proposal is capable of providing a safe means of access and egress to serve the existing and proposed houses in accordance with DMSO32 and the provision of 1 no. car parking space is in accordance with the car parking standards in Table 14.19 i.e. for a 2-bedroom house within Zone 1. I do not consider that the revised proposal will endanger public safety by reason of a traffic hazard. In addition to the bin store, I agree with the Roads Section's bike parking requirements.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, which is for a single infill house in an established urban and serviced area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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**

- 8.1. I recommend that planning permission be **granted** for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the provisions of Fingal Development Plan 2023-2029, the location of the development on zoned and serviced lands within the Dublin City and Suburbs settlement boundary, the small scale and infill nature of the proposed development site and the prevailing pattern and character of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenity or character of the area or be prejudicial to public health 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.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 19th day of December, 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 interests of clarity.</p>
2.	<p>The developer shall provide a secure bin and bike storage facility to the front of the proposed house, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
3.	<p>The external finish shall match the existing dwelling in respect of materials and colour.</p> <p>Reason: In the interests of visual amenity.</p>
4.	<p>The rear garden shall be bounded by a 2m high block wall, capped and finished in a material that matches the external finish of the dwelling.</p> <p>Reason: In the interests of residential and visual amenity.</p>
5.	<p>The flat roof of the rear ground floor projection shall not be used as a balcony or roof garden.</p> <p>Reason: In the interests of residential amenity.</p>
6.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</p>

7.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann, formerly Irish Water.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<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 Contributions 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.</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>
10.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of</p>

	<p>housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Philip Maguire
Planning Inspector
28th June 2023