



An
Bord
Pleanála

Inspector's Report

ABP-315601-23

Development	Construction of 4 no. dwellings and all associated site works
Location	St. Anthony's, 51 Dublin Road, Swords, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0575
Applicant(s)	LCD Developments
Type of Application	Permission
Planning Authority Decision	Refusal for 5 no. reasons
Type of Appeal	First Party
Appellant(s)	LCD Developments
Observer(s)	Alex and Anne Brennan
Date of Site Inspection	28 th June 2023
Inspector	Bernard Dee

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
4.0 Planning History.....	7
5.0 Policy and Context.....	9
6.0 The Appeal	11
7.0 Assessment	13
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16

1.0 Site Location and Description

- 1.1. The appeal site is located at St. Anthony's, 51 Dublin Road which is located in the southern suburbs of Swords to the north-west of the R132 which becomes the M1 further north. Pinnock Hill roundabout lies to the south-west of the appeal site and The Pavillions shopping centre to the north-east. The site is located on the eastern side of the Dublin Road (R836) and the site is occupied by a single storey, bungalow type dwelling, one of 12 similar dwellings (c. 1940's /1950's), all with direct access from the Dublin Road. There are two accesses from the site to the public road, the one to the south being narrow; that to the north being vehicular.
- 1.2. The appeal site is comprised of a semi-detached, 4 no. bedroom, two storey dwelling and the attendant garden where there are several structures including a large shed, formerly used as a garage / motor repair business. There are a number of other sheds to the rear which it is proposed to demolish. The wider area at the eastern end of the appeal site is very overgrown and a glasshouse, referred to on the drawings, has been partly removed. A high hedge grows along the northern, eastern and southern boundaries of the wider site area.

2.0 Proposed Development

- 2.1. The proposed development is comprised of the following 6 no. elements:
 - The demolition of 4 no. sheds/ancillary residential storage buildings and glass house located to the rear (east) of the site;
 - The construction of 4 no. semi-detached single-storey, two bedroom dwellings to rear (east) of site;
 - The revision of the existing front garden vehicular parking area serving No. 51 Dublin Road to provide 2 no. separate vehicular parking areas (providing a total of 6 no. car parking spaces) and new front garden area for No. 51 Dublin Road;
 - The revision/relocation of existing northern vehicular entrance and provision of new pedestrian entrance - both to serve the proposed dwellings;

- The provision of new pedestrian/bicycle access lane to serve proposed dwellings via Dublin Road; The provision of communal amenity space (900 sq.m) and bin storage area to serve the proposed dwellings; and
- All associated boundary treatment, landscaping, SUDS drainage and all other ancillary development works necessary to facilitate the development.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was refused on 13th December 2022 for 5 no. reasons as follows:

1. The proposed backland residential development, by reason of its impact on the established character and pattern of development in the area, by the proposed means of access which comprises a 2-metre-wide walkway in excess of 86 metres in length with a lack of passive surveillance, in addition to the piecemeal and haphazard form, would contravene materially Objective DMS44 of the Fingal Development Plan 2017 – 2023. Having regard to the substandard layout including the provision of a long access route to the rear of the site and the lack of public open space to serve the future residents, it is considered that the proposed development would constitute piecemeal backland development which would seriously injure the amenities of the area, would result in substandard residential amenity for future occupants, and would set an undesirable precedent for further such uncoordinated backland development in the area. The proposed development would be contrary to the 'RS' residential zoning objective of the site to 'Provide for residential development and protect and improve residential amenity' and would be contrary to the proper planning and sustainable development of the area.
2. The 2-metre-wide pedestrian access route to the proposed development in excess of 86 metres in length would result in a substandard form of development which would seriously injure the residential amenities of future occupants and of existing residents. Access for a fire tender vehicle to the proposed development has not been demonstrated and the proposed

development would result in a restricted car parking layout which would endanger public safety by reason of traffic hazard. The proposed layout and access to the development would result in piecemeal development of this backland prominent town centre site, would seriously injure the amenities of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The subject site has existing woodland at the eastern section of the site however it has not been demonstrated how the existing woodland would be addressed in the context of the proposed development. It is also considered that, by reason of its restricted access, substandard parking layout and lack of public open space provision and tree protection measures, the proposed development would provide a poor quality residential environment, would be out of character with the pattern of development in the vicinity and would materially conflict with the provisions of the Fingal Development Plan 2017-2023.
4. The proposal to connect to the public sewer via a shared foul drain service connection with pump is not in accordance with Irish Water Wastewater Infrastructure Standard Details (IW-CDS-5030-01) which is not acceptable. Insufficient information has been submitted with the planning application in order to satisfactorily demonstrate that the proposed development would not be prejudicial to public health.
5. The proposed development, set back in excess of 86 metres from the public road accessed by a 2 metre wide walkway, would set an undesirable precedent for other similar backland development, which would in themselves and cumulatively be harmful to the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report on file, in summary, had regard to the following planning issues:

- Residential use is permitted in principle under the RS zoning objective and that generally the extension of an existing dwelling is acceptable subject to Development Plan provisions.
- The Planner's Report notes that the proposed residential development closely resembles previous proposals which were refused permission on this site (see Section 4.0 of this Inspector's Report).
- The Planner's Report notes that given the single storey nature of the proposed dwellings that the visual impact would be acceptable and that the quality of accommodate proposed was in line with applicable standards.
- However, the Planner's Report noted the backland nature of the proposed residential development, the restricted layout and the pedestrian only access to the houses (parking to front of No. 51 Dublin Road) and felt that this piecemeal development was substandard in nature and would set an undesirable precedent for other sites in the area.
- The Planner's Report felt that the reasons cited for previous refusal of residential development at the appeal site had not been overcome in the present application.
- The Planner's Report noted the Transportation Sections misgivings regarding the proposed development especially with regard to fire safety (no vehicular access for emergency services). Likewise, the negative assessment of the Parks and Green Infrastructure Section and a requirement for further information in relation to the scheme were noted in the Planner's Report.
- The Water Services Section had similar misgivings regarding the proposed connection method with the mains sewer which was reflected in the negative assessment of the Planner's Report.
- The Planner's Report did not feel that either Appropriate Assessment or Environmental Impact Assessment was necessary in connection with the proposed development.

3.2.2. Other Technical Reports

- The Water Services Section, Housing Department, Environmental Health (Air & Noise Unit) and the Environment Section (Waste Enforcement &

Regulation) all replied that there was no objection to the proposed development subject to conditions.

- The Transportation Section and the Parks and Green Infrastructure Section required additional information in relation to the proposed development.

3.2.3. Prescribed Bodies

- Irish Water required additional information before commenting on the proposed development.
- daa (Dublin Airport Authority) had no objections subject to consultation with the IAA and IAA-ANSP.

3.2.4. Observations

Several observations were made in relation to this application and in summary the following issues were raised:

- The proposed development would be out of character with the character and pattern of development in the locality.
- The proposed development would be piecemeal backland development which would result in a substandard form of development for future occupants.
- The proposed development would adversely impact on the privacy and residential amenity of neighbouring properties.
- The proposed development would represent an overdevelopment of the site.

4.0 Planning History

4.1. On the Appeal Site

- ABP 304017-19, (PA Ref. F18A/0755) for demolition of existing dwelling and sheds and construction of replacement dormer dwelling and 3 no. contemporary dormer dwellings at the rear, alterations to vehicular entrances, provision of car parking and all ancillary works. The Board refused permission for two reasons (1) non compliance with the established character and pattern of development in the area and material contravention of objectives DMS39 and DMS44 of the Fingal Development Plan; and (2) that the scale and nature

of the development would constitute piecemeal backland development and would set an undesirable precedent in the area.

- PL06F.301082, (PA Ref. F17A/0734) for demolition of existing dwelling and sheds and construction of replacement dormer dwelling and 5 no. two storey contemporary dwellings at the rear, alterations to vehicular entrances, provision of car parking and all ancillary works. The Board refused permission for two reasons (1) non compliance with the established character and pattern of development in the area and material contravention of objectives DMS39 and DMS44 of the Fingal Development Plan; and (2) that the scale and nature of the development would constitute piecemeal backland development.

4.2. In the Vicinity of the Site

- Ref.F16A/0011 – Permission granted at No.55 Dublin Road, Swords for a single storey rear extension, refurbishment and alterations to existing dwelling, widening of the existing entrance gate and all associated site works.
- Ref.F15A/0081 – Permission granted for a new single storey family unit to the side of the existing house and associated site works – No.194 Carlton Court Swords.
- Ref. F14A/0492 -PL06F.244562 – Permission granted subject to conditions by the Board for the construction of a Lidl supermarket, (opposite side of the road to the south west of the subject site).
- Ref.F07B/0332 – Permission (no.47 Dublin Road to the north) sought to build a rear extension, part 1 storey and part dormer construction, of living room and bedrooms, with alterations to the existing house. Permission was granted following additional information for the proposal, with dormer omitted.
- Ref.F02A/1510 – Permission granted for 2 no. 4 bed bungalows to the rear of Nos. 59 and 61 Dublin Road, with access from Carlton Court.
- Ref. F99A/1171 – Permission granted for the construction of 36no. 1 and 2 bed apartments in a three-storey block, over basement carpark.
- Ref. F96A/0329 – Permission was granted for a dormer bungalow – Site adjoining Nos.162 and 164 Carlton Court.

5.0 Policy and Context

5.1. Development Plan

Fingal Development Plan 2023-2029 is the statutory plan for the area within which the appeal site is situated and it came into effect on Wednesday 5th April 2023. The Planner's Reports on file and the First Party appeal therefore refer to the Fingal Development Plan 2017-2023. and may be disregarded by the Board. Set down below are the relevant Fingal Development Plan 2023-2029 policies and objectives in relation to this appeal.

The appeal site is located within Zoning 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.

- 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.

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.

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 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.

5.2. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site:

- Malahide Estuary SPA – 004025.
- Malahide Estuary SAC – 000205.
- Proposed NHA Malahide Estuary – 000205.

5.3. 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.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the First Party appeal submitted by Hughes Planning & Development Consultants are, in summary, as follows:

- The proposed development has been designed to ensure that no loss of amenities occurs to the neighbouring properties by way of anti-social behaviour or overlooking from the proposed houses or pedestrian access.
- Policies in the Development Plan relating to backland development encourages the use of sites such as the subject site for residential development and also encourages innovative designs for such housing proposals.
- The proposed development is in compliance with the National Planning Framework to deliver 40% of new homes within existing urban areas (NPO 3a) and to increase the density of infill residential development (NPO 35).

- The inability of fire tenders to access the proposed dwellings is a matter for building control codes and it should be noted that minimum fire safety standards are met by the proposed development but can be upgraded if required.
- The appeal site does not contain woodland as the Planning Authority appear to think but rather the site has the appearance of an overgrown garden. It is proposed to retain some planting and introduce new planting as part of a landscape plan for the proposed residential development.
- There are precedent cases in close proximity to the appeal site where backland residential development has been permitted.
- The issue of four drainage requirements can be met by way of a condition of permission and the proposed development would not therefor be prejudicial to public health.

6.2. Planning Authority Response

The Planning Authority response has no further comment on the case but asks the Board that if it is minded to grant permission in this instance then a Section 48 contribution condition should be attached to the Order and also a bond condition relating to the upkeep of the common areas proposed in the development.

6.3. Observations

An Observation has been received from Alex and Anne Brennan who are the property adjacent to and north of the appeal site – No. 49 Dublin Road. The Observation expresses concerns regarding property damage to the Observers house during construction work, a loss of privacy due to the pedestrian access to the proposed houses and an absence of any information about the maintenance and upkeep of the proposed development.

6.4. 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 planning issues, therefore, are as follows:

- Principle of development.
- Design and layout.
- Impact on residential amenity.
- AA Screening.

7.1. Principle of Development

7.1.1. Having regard to the residential zoning of the area within which the appeal site is situated and to the urban and serviced location of the subject site, I believe that the construction of a residential development at this location is acceptable in principle.

7.2. Design and Layout

7.2.1. The design evolution with regard to residential development at the rear (east) of the appeal site has gone from the construction of 5 no. two storey dwellings (PL06F.301082), to the construction of 3 no. dormer dwellings at the rear (ABP-304017-19) to the current proposal of 4 no. single storey dwellings to the rear in several different layouts and house designs and access proposals (the first two refusals relate to vehicular access being proposed to the rear of the appeal site).

7.2.2. The Board refused permission for the first two planning applications for the same two reasons (1) non-compliance with the established character and pattern of development in the area and material contravention of objectives DMS39 and DMS44 of the Fingal Development Plan; and (2) that the scale and nature of the development would constitute piecemeal backland development.

7.2.3. In essence, the design has evolved in terms of a reduction of height of the proposed dwellings but not, given the constricted nature of the site, in the layout, open space or overdevelopment aspects of the development of this backland site. The most

recent proposal for a +80m pedestrian access to the rear houses from parking spaces to the front of 51 Dublin Road house underlines just how restricted the site is in terms of development for residential purposes.

7.2.4. I note the provisions of the Development Plan in favour of increased densification of urban areas and to the general acceptability of residential development in backland sites but such an acceptability is subject to any such developments not having an adverse impact on neighbouring properties and also the need to provide a standard of accommodation that would meet levels of amenity with regard to open space, landscaping, access for emergency services, etc.

7.2.5. However, this backland site does not in my opinion comply with Objective SPQHO42 of the Development Plan which relates to developments on underutilised infill, corner or backland sites as such development is subject to the character of the area and environment being protected. While the room sizes, open private space and other measurable criteria appear to be met in a quantitative sense, the proposed development does not in qualitative terms accord with Objective SPQHO42 of the Development Plan.

7.2.6. To propose 4 no. single storey housing on the eastern part of this site would be totally contrary to the established pattern and character of development in the area. The First Party cites several other backlands development in the vicinity of the appeal site as precedent for a positive decision by the Board in this instance but, there precedent cases are not comparable with the appeal site as the quantum of residential developments permitted on these sites is appropriate to the size of the sites and to the residential contexts within which the sites are located.

7.2.7. In summary, I am of the opinion that the development as proposed does not represent a well designed residential development given the site constraints that apply in this instance, and this proposed piecemeal development would be contrary to Objective SPQHO42 of the Development Plan which seeks to protect the character and environment of the area.

7.3. Impact on Residential Amenity

7.3.1. The Observer submission objects to the proposed development as the pedestrian access to the proposed houses passes the rear garden area of their house to the north of the appeal site. To a degree good landscaping could mitigate this potential

impact on residential amenity. However, the lighting of this pedestrian access path, significantly increased vehicular traffic to the front (west) of the appeal site and the overdevelopment of the site would I believe have an adverse impact on the residential amenity of the area and neighbouring properties.

7.3.2. I do not believe that there are any impacts on residential amenity attached to the proposed development by virtue of overlooking from the proposed dwellings or overshadowing issues associated with the proposed housing units.

7.4. Other Issues

7.4.1. The issue of access of fire emergency vehicles has not to my mind been satisfactorily addressed by the applicant given the lack of vehicular access to the proposed houses. However, this issue on its own may be resolvable and is not a reason to refuse the proposed development.

7.4.2. Similarly, while the retention of the vegetation screening at the appeal site may be an issue for the Planning Authority, I believe that the loss of some trees/bushes could be mitigated by a landscaping plan and therefore this issue is not one to base a reason for refusal on in this case.

7.4.3. Traffic hazard does not seem to be a concern to the Planning Authority in this case and in any event could be mitigated by condition if necessary.

7.4.4. In addition, the issue of foul drainage connection arrangements could be met by way of a condition of permission if required.

7.4.5. The issue of potential foundation damage to the Observers property is not an issue of significance in this case and such fears could be allayed by the use of best practice construction methods were the development to proceed.

7.5. AA Screening

7.5.1. 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 refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the limited area and access arrangements associated with the site and its relationship to adjoining property, it is considered that the proposed development represents inappropriate backland development, would result in a development of substandard residential units and would seriously injure the amenities of adjoining residential property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the objectives of the current development plan for the area which require that the character of the area and environment are protected, and having regard to the pattern of development in the vicinity, it is considered that, by reason of the design, layout and access proposals would have an adverse impact on the character of the area. The proposed development would, therefore, conflict with the objectives of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Bernard Dee
Planning Inspector

3rd August 2023