



An
Bord
Pleanála

Inspector's Report ABP316408-23

Development	Revisions to layout and revised position and design of house numbers 45 and 46
Location	North of Ashgrove and Baskin Lane (L2055), Cloughran, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F23A/0036
Applicant(s)	Jackie Green Construction
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party v Decision
Appellant(s)	Colm Shine and Cara Herbert
Observer(s)	none
Date of Site Inspection	30/08/2023
Inspector	Brendan McGrath

1.0 Site Location and Description

1.1. The site is part of 'Abbey Green', a housing project currently under construction.

Groundworks are under way on the part of the construction site which is the subject of this appeal. The site is in a semi-rural location to the east of Dublin Airport. The site lies to the rear of 'Ashgrove', an existing housing scheme of 1½ storey, semi-detached dwellings. The proposal site overlooks open countryside to the north. The appellants live in one of the Ashgrove estate houses (no 29) backing onto the development site. Part of the site is fenced off where there is a Japanese Knotweed infestation.

2.0 Proposed Development

2.1. It is proposed to amend an approved layout, including the relocation of a hammerhead turning area to where a pair of 2-storey semi-detached houses had been placed, and substituting those units by an extension of the proposed line of houses backing directly onto the Ashgrove estate. Two of the three houses involved in the revision are a house-type (D) in the approved scheme. The third house, at the end of the row, beside the relocated hammerhead, is a 2-storey, 4-bedroom house, which is a new design (type E). There is no change to the total number of dwellings proposed in the scheme (46).

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 7 conditions. These include a condition requiring compliance with the conditions of the previous grants of permission on the larger site of which the appeal site is a part. The grant also includes a condition (no 3) that proposed dwellings be provided with noise insulation to an appropriate standard due to proximity to the airport.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report is the basis of the council decision. The report recommends permission because the proposal is in accordance with development plan policy, meets residential development standards and is consistent with the existing permitted scheme. The planner's report specifically addresses issues raised by the third party in its submission to the council.

The planner has assessed the proposal for EIA and concluded that, by virtue of its scale, the proposal does not require an EIAR.

The planner observes that the parent application was screened for appropriate assessment and it had been concluded by both the council and the Board that the project would not be likely to have a significant effect on any European site. The planner considered that the proposal under consideration, either alone or in combination with other projects would not have a significant effect on European sites.

3.2.2. Other Technical Reports

The council's Transportation Planning section has no objection to the road layout and parking proposals. The Water Services Department of the Council and Uisce Éireann have no objection to other infrastructure aspects of the proposal.

4.0 Planning History

F16A/01552, ABP 06F.247545 Construction of 46 houses. Grant by council and decision upheld on appeal in 2017

F17A/0350 Grant of amendments to house design granted under ABP 06F.247545

F22A/0562 Grant of permission for revisions to house type C in the scheme (this grant does not affect the subject site)

Grants of Extension of duration permissions in 2021 (F16A/0152/EI and F16A/0152/EIA)

5.0 Policy and Context

5.1. Development Plan

The relevant development plan is the Fingal Development Plan 2023-2029. The site is zoned RS, the objective of which is to 'provide for residential development and protect and improve residential amenity'.

5.2. Natural Heritage Designations

The application site is 3km. south of the Malahide Estuary SAC and SPA. The site is 3.6km east of Baldoyle Bay SAC and Baldoyle Estuary SPA. The site is hydrologically linked to these sites by a ditch and the Sluice River.

5.3. EIA Screening

Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is lodged on behalf of a couple living in Ashgrove, the adjacent housing estate. Their home backs onto the proposal site. The grounds of appeal are:-

- A site notice not adequately displayed, case-law cited,
- Inadequate screening for appropriate assessment, case-law cited,
- Adverse impact on light in 29 Ashgrove, special case put forward on the basis of the poor sight of the appellants' child,
- Overlooking of 29 Ashgrove,
- Loss of view from 29 Ashgrove,
- Contravention of a condition of parent permission requiring implementation of a Japanese Knotweed Invasive Species Management Plan

6.2. Applicant Response

- Site notice Two site notices were erected. The local authority accepted that they were in order. The applicants were aware of the application and able to participate in the application process, making submissions to both the council and the Board.
- Inadequate screening for AA It is pointed out that since the parent permission in 2016 granted by the council and on appeal, a number of grants have been made based on the original screening. It is also pointed out that the current proposal is minor in nature and that the quantum of development is unchanged.
- Adverse impact on light available to 29 Ashgrove The proposal site is due north of Ashgrove so there will be no loss of sunlight.
- Overlooking The floor levels of the proposed dwelling (no 45) are 2.5m lower than that of no 29 Ashgrove. This precludes any overlooking. The proposed first floor of 45 is only approx. 0.5m above the rear garden of no 29 and the first floor windows of no 45 do not directly face no 29. The gap between the

first floor windows of no 29 and proposed no 45 exceed the minimum standard separation distance of 22m

- Loss of view There is a gap of 7.8m between the proposed 45 and 46 Abbey Green so that the residents of 29 would still have a view of the countryside to the north
- Contravention of condition The eradication of a clump of Japanese Knotweed does not relate to the part of the site where the proposed units are located and which is the focus of the appeal

6.3. Planning Authority Response

- In respect of specific concerns of the 3rd party. They were given consideration by the council when it made its decision.
- In respect of AA. It was considered that the proposed alterations were not of a scale or nature to alter the conclusions of the Appropriate Assessment Screening associated with the original permission.
- In respect of the site notice. The notice was inspected on 8th March 2023 and was considered to be clearly visible from the public space.

7. Assessment

7.1. Having visited the site and examined all the application and appeal documentation I consider that the issues arising are:-

- The validity of the application,
- The principle of the development,
- Contravention of a Condition 2 of permission F16A/0152 PL 06F.247545, re Japanese Knotweed Management Plan, and
- Impact on the residential amenity of an existing nearby house immediately adjacent house (29 Ashgrove)

7.2. The validity of the application In my opinion any shortcoming in the displaying of site notices has been minor in nature. It did not prevent the

appellant from fully participating in the application process and the local planning authority has stated that the application was adequately displayed.

7.3. The principle of the development The proposal represents a revision of a 46-unit housing scheme granted permission on appeal in 2017 and subject to further approved amendments since that date. In this regard, given the minor nature of the current proposal, I consider that the proposal has already been adequately evaluated in respect of Appropriate Assessment.

7.4. Contravention of Condition 2 of permission F16A/0152 PL 06F.247545, re Japanese Knotweed Management Plan Condition 2 of the parent permission requires that no works shall take place on sites 45,46,23,24 and 25 until all Japanese Knotweed has been eliminated from the site. In this proposal sites 45 and 46 now form part of the proposed hammerhead and part of the site for House Type E. Site works have taken place in this area in contravention of the Condition 2. In my opinion this breach is to be regretted but the breach is not to a degree which should lead to this proposal being refused permission. It would be necessary though, should the Board decide to grant permission, to specify that no further works take place on the hammerhead, adjacent open space and the site of House Type E until the Japanese Knotweed on site is eradicated in full compliance with condition 2 of PL 06F.247545 and to the written satisfaction of the planning authority.

7.5. Impact on the residential amenity of 29 Ashgrove In my opinion, given the distance (>22m) between 29 Ashgrove and the proposed houses, the difference in levels (the new houses are at a lower level) and the relative positions of the houses (the proposed houses are to the north of 29 Ashgrove), I do not believe that the proposal would result in either a significant loss of light or lead to significant overlooking. Loss of a private view is not a valid reason to refuse a proposal and, in this instance, the loss of view is only a partial one.

7.6. Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the

application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

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

9.0 Reasons and Considerations

9.1. Having regard to the original grant of permission and the need to protect the residential amenity of adjoining property it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of the adjoining property and would be in accordance with the proper planning and sustainable development of the area.

9.2. 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.

10.0 Conditions

1.	<p>The development shall be carried out and completed 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.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>The terms and conditions of the grant of permission by An Bord Pleanála under PL06F.247545 shall be complied with in full save for the changes to plans submitted in this application. In respect of Condition 2 of the grant of permission under PL06F.247545, no further construction or excavation works shall take place in the area of the proposed hammerhead, adjacent proposed open space or site of the proposed E-type house until Japanese Knotweed has been eradicated from the site to the written satisfaction of the planning authority.</p> <p>Reason: in the interests of proper planning and sustainable development</p>
3.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
5.	<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. The contribution shall be paid prior to the 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 the Board 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 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be</p>

	applied to the permission.
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Brendan McGrath
Planning Inspector

25th September 2023