



An
Bord
Pleanála

Inspector's Report

ABP-317529-23

Development	Demolition of existing detached bungalow and vehicular entrance and construction of a terrace of 5 no dwellings and associated works.
Location	90 Shanliss Way, Dublin 9, D09 N8E8
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4957/22
Applicant(s)	Brendan O' Brien
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Jana Toner
Observer(s)	None.
Date of Site Inspection	08 th of March 2023.
Inspector	Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site (0.19 ha) consists of a single storey bungalow with private front and rear gardens, at 90 Shanliss Way, Dublin 9. The dwelling is located to the north of a semi-detached dwelling and to the south of an ESB substation. The site is within an established residential estate which mostly comprises of two storey semi-detached and terrace dwellings.
- 1.2. The site fronts onto Shanliss Way and there is pedestrian access along the north of the site, between Shanliss Way and Coultry Avenue to the rear. A 2m high block wall runs around the north and rear of the site, facing onto Coultry Avenue.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
 - a) demolition of an existing detached bungalow dwelling and ancillary buildings, including the removal of the existing vehicular entrance,
 - b) construction of a terrace of five new houses, each with 3 bedrooms, over three storeys,
 - c) pedestrian access onto Coultry Avenue and a vehicular entrance at the front onto Shanliss Way,
 - d) hard and soft landscaping, lighting, boundary treatment and associated site work.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission for 15 no conditions of which the following are of note:

C5: Compliance with transport related requirements.

C6: Compliance with Drainage related requirements.

C7: Parks Tree Protection.

C8: Parks Tree Bond.

C10: Submission of a Section 47 agreement, i.e., no control by a corporate entity.

C5: Submission of estate name for agreement.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information summarised below:

Further Information

- Reduction in carparking spaces from 10 no. proposed to 1 per dwelling. The reduction in spaces is to allow compliance with the parking standards under Parking Zone 3 of Section 16.2 of the development plan (2016-2022).
- Submission of a tree survey which proposed the removal of two purple plum trees in the front garden and a leyland cypress in the rear garden. The proposal includes the retention of all other trees on the site (e.g., 1 no whitebeam and early mature sycamores).
- Submission of revised floor plans illustrating the width of the living room in compliance with the Ministerial Standards.

The report of the area planner also addressed the following issues:

- Principle of development: The zoning on the site and Policy QH24 of the development plan allow increased densities and better use of scarce urban land.
- Height, scale, design, and visual impact: The increase height is noted although the visual impacts on the public realm are considered acceptable.
- Density, site coverage and plot ratio: The density at 63 dwelling per ha is acceptable on the site which is well served. The plot ratio and site coverage are within the acceptable ranges in the development plan.
- Residential Quality Standards: The design is in keeping with the national standards and private open space is acceptable.

- Impact on Neighbouring properties: The orientation of the new dwellings and the existing dwellings would ensure no undue overlooking. The proposal is set back sufficiently from the adjoining dwelling (No.88) and the overshadowing analysis illustrates no undue impact on the surrounding area.

3.2.2. Other Technical Reports

Transport Planning Division: No objection following the submission of further information.

Drainage Division: No objection subject to conditions.

Parks and Landscape: No objection following the submission of further information.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

A significant number (c.18) of third-party submissions were received from residents of properties in the vicinity of the site. The submissions are similar and are summarised below:

- The proposal represents overdevelopment.
- The design and style of the dwelling would have a negative impact on the streetscape.
- The proposal doesn't have the required open space.
- There would be additional pressure on parking and traffic in the vicinity.
- There would be additional pressure on services including foul and surface water.
- The three storey units are very close to a busy junction.

4.0 Planning History

Reg Ref 3169/21

Permission refused for the demolition of an existing bungalow and the construction of a three-storey apartment development for reasons of lack of open space and impact on the adjoining property at No.88 Shanliss Way.

Within the vicinity of the site

Reg Ref 4591/10

Permission refused for a two storey, two-bedroom masonite at no. 165 Shanliss Avenue (opposite side of the Shanilss Road) for reason of impact on residential amenity.

5.0 Policy Context

5.1. National Guidance

Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (DEHLG).

5.2. Dublin City Development Plan 2022-2028

Zoning

The site is zoned Z1 sustainable residential neighbourhood, where it is an objective “To protect, provide and improve residential amenities”

Development Standards

Section 15.5.2: Infill Development

Gap sites within existing areas of established urban form should complement the existing streetscape and:

- To respect and complement the prevailing scale, mass, and architectural design in the surrounding townscape.
- To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and

detailing of existing buildings, where these contribute positively to the character and appearance of the area.

- Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.
- In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest.
- Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts in the surrounding neighbourhood.

Section 15.11: House Developments

- Internal layout to comply with the national guidance.
- Orientation of dwellings to maximise daylight and sunlight.
- Provision of private open space.

Car parking

Map J: Site is within Car parking Zone 2.

Appendix 5: 5.0 Car parking standards

- Zone 2 is a highly accessible location

Table 2: Maximum car parking standards

- 1 space per dwelling.

5.3. **Natural Heritage Designations**

There are no European sites within the vicinity of the site.

5.4. **EIA Screening**

- 5.4.1. The proposed 5 no dwellings do not exceed the thresholds for mandatory EIA (i.e., 500 dwellings or an area greater than 2 hectares in the case of a business district,

10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere) as per Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended).

5.4.2. Having regard to:

- (a) Characteristics of the proposed development,
- (b) The nature and scale of the proposed development, on zoned lands served by public infrastructure,
- (c) The types and characteristics of potential impacts,

it is concluded that, by reason of the nature, scale and location of the subject site in a built-up area with no real likelihood of significant effects on the environment arising from the proposed development, the proposed development would not be likely to have significant effects on the environment. Therefore, I consider the need for an Environmental Impact Assessment can be excluded.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by a resident of the property to the west of site. The issues raised are summarised below:

6.2. Introduction

- A background of the site context is provided.
- The surrounding area is characterised by semi-detached dwellings on generous plots.
- The site zoning, planning history and the decision of the planning authority are summarised.

6.3. Impact on Residential Amenity

- The proposal is overdevelopment and overbearing on the surrounding area.
- The proposal uses the full width of the site.

- There is no rear access to the site and the bin storage will be in the small front garden/parking area and will be a visual and aesthetically unpleasing.
- A less dense proposal would allow rear access to the site.
- Dwelling No 5 directly abuts an ESB substation. There is serious fire risk associated with the location beside an ESB station.
- Dwelling No 1 will abut the appellant's dwelling. The blank façade along her property will cause a tunnel effect. There should be additional separation to reflect the predominant typology of the area.
- The planning officer notes that house no 1 is close to no 8 Shanliss although the house is set back from the boundary by the width of its garage. It is also noted that the houses do not project beyond the established rear building.
- The appellant considers the proposal will have an overbearing impact on the adjoining property.
- The proposal does not have a positive impact on the height, scale, design, or visual impact of the local character.
- The ridge line of the proposal is 10m where the ridge line of the adjacent dwelling is c. 7.5m. The applicant's design statement is incorrect when it states that the design is in proportion to the surrounding area.
- A less dense design would be more sympathetic to the surrounding area.
- The internal standards are only meeting the minimum standards which is deficient.
- A previous proposal at 163 Shanliss Avenue (Reg Ref 4591/19) was refused for impact on the adjoining property.
- The proposal will depreciate the value of property in the vicinity.
- The proposal is a material contravention of the zoning as it does not protect or improve the residential amenities of residents.

6.4. Traffic and Parking

- Shanliss Avenue is a "rat run" during peak hours. The road is also used by schools.

- The additional street parking will cause a traffic hazard.
- The report of the planning officer notes the site is not within reasonable distance of light rail and the nearest bus stop is 250m away.
- The low parking standards are based on aspirational travel patterns and will generate overspill of 7 cars onto the road at a busy junction.

6.5. Precedence

- A grant of permission would set an undesirable precedent for similar overdevelopment.

6.6. The appeal is countersigned by c. 51 persons (residents in the vicinity of the site) in support of the objection.

6.7. **Applicant Response**

6.7.1. A response to the third-party appeal was received from the applicant, as summarised below:

6.7.2. Development Viability

- It is accepted that the site should be redeveloped to make better use of the land.
- The existing permission of 5 dwellings is the minimum required to make the redevelopment financially viable.

6.7.3. Maturity of Application

- Over the past 3.5 years there have been 3 planning enquiries, 2 planning applications, one refusal and one RFI with extensive engagement.
- The 3rd storey is on the roof, there is no negative impact on the adjoining residential amenity.
- The design is appropriate.

6.7.4. Groundless Nature of Appeal

- The appellant's issues have already been raised and addressed.
- Bins in the front of the dwellings are the same as all terraced dwellings.

- There will be no tunnel effect on the adjoining property.
- A detailed sunlight analysis indicates no overshadowing.
- The floorplans clearly show that the proposed internal floor areas can comply with Table 5.1 of the Quality Housing for Sustainable Communities.

6.7.5. Credibility of Petition

- There is potential for bias with the supporting petition and there are some irregularities in the grounds of appeal.

6.7.6. Lack of Local Support for the Appeal

- The submitted third party appeals are all similar in nature.

6.8. **Planning Authority Response**

6.8.1. A response from the planning authority requested the Board to uphold the decision to grant and requested the following conditions are included in any grant of permission:

- Section 48 Development Contribution
- Payment of a bond.
- Contribution in lieu of the open space is requirement not being met.
- A naming and numbering condition.

6.9. **Observations**

None received

7.0 **Assessment**

The main issues relevant to the grounds of appeal is considered as follows:

- Impact on the Character of the Area
- Impact on Residential Amenity
- Traffic and Parking

- Appropriate Assessment

7.1. Impact on the Character of the Area

Introduction

- 7.1.1. The proposal is an infill development within the urban area of Dublin City. The proposal includes the removal of an existing bungalow and replaced with 5 no terrace dwellings. The grounds of appeal consider the new proposal is overdevelopment on the site and the height, scale and design is not appropriate at this location.

Density, Site Coverage and Plot ratio.

- 7.1.2. Appendix 3 of the development plan provides guidance for residential development and the delivery of compact growth. Table 1 indicates a net density range of c. 60-120 for locations in the outer suburbs. The report of the area planner assessed the density (63 units per ha/uph) against the national policy and notes no upper limits set in the development plan. As elaborated below in Section 7.3, the site is well served by a public bus network and near a range of urban services. I consider the location of this site and the proposal for an infill development justification for increased density in keeping with Section 5.5 of the sustainable residential guidelines¹ and guidance in the development plan.
- 7.1.3. Table 2 provides guidance for the appropriate plot ratio and site coverage. The plot ratio at 1:0.81 and site coverage (36%) is below the range indicate for the central area (2.5-3.0) and 60-90% respectively although having regard to the density I consider this reasonable.

Design and Layout

- 7.1.4. Section 15.5.2 of the development plan provides guidance for appropriate infill. Proposals should respect the general mass and characteristics of the surrounding area. I note the site is generally surrounded by two storey semi-detached or terrace dwellings. The character of existing dwellings in the vicinity of the site is varied with a range of elevational types and many of the dwellings have been altered with

¹ Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (DEHLG)

individual features. I note the overall contemporary design of the dwelling, similar to an existing terrace row to the north which I consider acceptable.

- 7.1.5. The height of the proposed dwellings is 3 storey and c. 2.8m higher than the appellants dwelling to the south of the site (No.88 Shanliss Avenue). Having regard to the orientation of the site and the absence of any overshadowing I do not consider the increased height of the proposal would have a significant negative impact on the amenity of the occupants of that dwelling to the south.
- 7.1.6. The proposed bin/ bicycle storage area in the front gardens is raised as a concern by the appellant, as it is considered this would have negative visual impact on the area. I note the proposal includes a landscaping scheme. I note the trees along Shanliss Ave are to be retained and additional hedging planting proposed to screen bicycle and bin areas in the front garden. The report of the Parks and Landscape Section considers the landscaping scheme and tree retention acceptable and recommended conditions relating to the same. I consider the proposed landscaping scheme is acceptable to provide enclosure to the bin/bicycle storage and I do not consider the proposal will have a negative impact on the character of the area.
- 7.1.7. Overall, I do not consider the design and layout of the proposal will have any significant negative impact on the character of the area and I consider the extension is in keeping with the development guidance of the development plan.

Conclusion.

- 7.1.8. Having regard to the location of the site within an existing urban area, the characteristics of the surrounding residential area and the proposed design and layout, I consider the proposal is in keeping with the national and local policies and objectives for infill development in an urban setting, is not overdevelopment of the site and will not have a negative impact on the character of the area.

7.2. Impact on Residential Amenity

Introduction

- 7.2.1. The proposed development includes the demolition of an existing bungalow and the construction of 5 three storey terraced dwellings on the site. The proposed terrace

will front onto Shanliss Avenue with pedestrian and vehicular access also along Shanliss Avenue.

- 7.2.2. The grounds of appeal have been submitted from the occupant of the existing two storey semi-detached dwelling to the west of the site who has raised concern in relation to the impact of the proposal on their residential amenity, character of the area and traffic and transport.
- 7.2.3. In terms of residential amenity, they consider the proposal will have an overbearing impact and cause a tunnelling effect on the existing property. I have addressed the impact of the proposal on the residential amenity in the first instance below.

Overbearing

- 7.2.4. The appellant's property is a two-storey dwelling located to the west of the subject site. The proposed terrace is 3 stories in height (c. 10m) and the gable end of dwelling No. 1 is located along the boundary beside the appellant's property.
- 7.2.5. The appellant's dwelling is set back from the boundary by c.5m (the width of the driveway). The appellant's front door has been relocated along the side of the house although the main windows of the appellant's dwelling are to the north and south of the dwelling, away from the subject site.
- 7.2.6. Having regard to the orientation of the appellant's dwelling to the west of the subject site, there will be no overshadowing on the property or along the entrance to the dwelling. Whilst the gable end of the proposed dwelling will be visible on approach to the dwelling, having regard to the orientation of the main windows and the distance of the proposed gable end, I do not consider it would have a significant negative impact on the residential amenity of the residents.

Residential Quality Standards

- 7.2.7. The grounds of appeal consider the size of the proposed dwellings, and associated room sizes, is inadequate and compliance with the minimum standards is still not acceptable.

- 7.2.8. Section 15.11 of the development plan states that the internal room sizes must comply with the national standards². On foot of a further information request the living room width was increased from 2.95m to 3.8m to comply with the minimum standards. The report of the area planner noted the submitted redesign was open plan and considered this acceptable.
- 7.2.9. I note the standards as set in the national guidance as incorporated into the development plan standards. These guidelines provide a consistent approach to best practice design and allow the efficient use of urban sites delivering compact dwellings. I consider the applicant has complied with the guidelines and I find no reason why the proposal should be required to provide rooms greater than these standards.

Substation Location

- 7.2.10. The current substation is not within the site boundary and will remain beside the site, directly north of dwelling No. 5. The appellant considers the noise emitted from the substation will have a negative impact on the amenities of the future occupants. Upon site inspection I did not notice any significant noise emitting from the substation. No issues have been raised by the PA during the application. I note the relatively modest size of the substation and the integration with the proposal, and I do not consider there will be any significant negative impacts on the residential amenities of future occupants.

Conclusion

- 7.2.11. Having regard to the location of the subject site to the north of the adjoining dwelling and the design of the proposed dwellings, it is not considered the proposal will have a significant negative impact on the residential amenity of those residents of properties in the vicinity of the site.

7.3. Traffic and Parking

- 7.3.1. The dwelling is located on an end of row where the front of the dwelling is accessed along Shanliss Avenue and the rear backs onto Coultrey Road. There is currently a

² Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (DEHLG).

vehicular access along the Shanliss Avenue for the current dwelling. Other dwellings in the vicinity have off street parking with some of the newer terrace developments to the north of the site with restricted off-street parking.

- 7.3.2. The proposal includes new vehicular access and single space car parking to the front of the house no. 2, 3, 5 and 5 and pedestrian only access to house no.1. The provision of carparking spaces on side was reduced from 10 no spaces on foot of a further information request along with the provision of bicycle parking within the front garden space of the proposed dwellings.
- 7.3.3. The grounds of appeal raised concerns in relation to the lack of car parking within the curtilage of the proposed dwellings. It is considered the proposal will lead to an overspill of c 7 car parking along the public footpath. Having regard to the location of the site, along Shanliss Avenue, which the appellants considered to be a “rat run”, the proposal will cause a traffic hazard and endanger public safety.
- 7.3.4. The site is in Zone 2 of Map J of the development plan. The Dublin City Development Plan 2016-2022 was the development plan at the time of the FI request although the Dublin City Development Plan 2022-2028 was adopted at the time of the decision making. I note no significant alteration to the car parking strategy for this site between both development plans.
- 7.3.5. I note the car parking standards for Zone 2 (Appendix 5) are listed as a maximum permissible. These areas are defined as being highly accessible to public transport and services. The report of the area planner notes the location of bus stops within the vicinity of the site (250m and 700m) with the Swords Road a future spine core for the proposed Bus Connects. I consider the car parking rate reasonable to control car use within the city. Upon site inspection I noted the location of on-site parking for dwellings is generally restricted to private driveways with an absence of on-site parking within some the newer developments. There was no evidence of any significant issues with on-street parking obstructing the normal flow of traffic throughout the area.
- 7.3.6. Having regard to the location of the site, served by public transport, the design and layout of the proposal including the integration of both par and bicycle parking within the curtilage, and the policies and objectives of the development plan to restrict on-

site parking, I do not consider the proposal would not endanger the public safety by reason of traffic hazard.

7.4. **Appropriate Assessment**

7.5. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, 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**

8.1. I recommend that planning permission should be GRANTED for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

Having regard to the design and layout of the dwellings and the pattern of development in the vicinity of the site, it is considered that the proposed development complies with the policies and objectives in the Dublin City Development Plan 2022-2028, would not have a significant negative impact on the residential amenities of the adjoining dwelling or those in the vicinity of the site or endanger public safety by reason of traffic hazard. The proposed development is in keeping with the proper planning and sustainable development of the area.

10.0 **Conditions**

1.	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
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	<p>shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>The applicant shall comply with the requirements of Irish Water.</p> <p>Reason: In the interest of public health.</p>
4.	<p>The internal road network and all those car parking requirements serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
5.	<p>Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p>

	Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity</p>
7.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [three] years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To secure the protection of the trees on the site.</p>
8.	<p>All planting/landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority, shall be maintained, and if any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.</p>

	Reason: In the interest of visual amenity.
9.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows -</p> <p>(a) an approved insurance company bond in the sum, or</p> <p>(b) a cash sum of to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or</p> <p>(c) such other security as may be accepted in writing by the planning authority.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
10.	<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</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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Karen Hamilton
Senior Planning Inspector

11th of September 2023