



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318696-23

<b>Development</b>	Demolition of existing garage to the rear of the existing property and construction of house and associated works.
<b>Location</b>	1 Foyle Road, Dublin 3.
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	4549/23
<b>Applicant(s)</b>	James Fitzgerald.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	James Fitzgerald.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	3 <sup>rd</sup> of February 2024.
<b>Inspector</b>	Stephanie Farrington

## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 0.0305 ha, is a side/rear garden of an existing 2 storey end of terrace dwelling at no. 1 Foyle Road. The site is currently enclosed by a wall and is occupied by a single storey garage along the western elevation. Vehicular access is provided via the gated entrance from Philipsburgh Avenue. A number of vehicles were parked on the site on the day of site inspection.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises demolition of an existing garage and construction of 1 no detached partial two storey 2 bed dwelling and off-street parking. Access to the dwelling is proposed from Philipsburgh Avenue.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Dublin City Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:

1. The current Dublin City Development Plan 2022-2028 sets out a requirement of a minimum of 10sq.m of private open space per bedspace for new dwellings and that generally, up to 60/70sq.m of rear garden is considered sufficient for houses in the city (Section 15.11.3). The proposed development containing three to four bedspaces would provide a substandard level of private open space which, in its location, size, dimensions, level of sun lighting and context with no functional relationship (overlooking or otherwise) with the living areas of the dwelling would provide a poor level of residential amenity for future occupiers. In itself and by the precedent established for substandard development the proposed development would seriously injure the residential amenities of the area. The proposed development would be contrary to both the current Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

2. The site of the proposed development is prominent in the context of Philipsburgh Avenue, particularly when approached from the north. The proposed development, in its poorly detailed façade design would not contribute positively to the character of the street and would not be visually harmonious with the existing dwellings as required under Section 15.13.3 of the City Development Plan 2022-2028. In itself and by the precedent established for such substandard design the proposed development would seriously injure the residential and visual amenities of the area and the proposed development would be contrary to both the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's report reflects the decision of the planning authority. The following provides a summary of the points raised.

- The report raises concern in relation to the awkward first floor plan with wasted corridor space and modest shower room.
- The report outlines that the proposed private open space of 25 sq.m. is grossly substandard for a 3–4-person dwelling, has little sunlight levels and no functional relationship with the dwelling and an overall poor amenity value.
- The report refers to the prominent location of the site and the high visibility of any future development. The development is not of sufficient quality to justify breaking the building line, and introduction of a prominent structure on the streetscape.
- The report sets out a summary of the report from the Transportation Planning Department and the recommendation to omit the garage parking. The report refers to the potential to incorporate this space as habitable space but restates concern in relation to the proposed private open space.
- The report outlines that the development is not considered consistent with the Dublin City Development Plan 2022-2028.

### 3.2.2. Other Technical Reports

- Transport Planning Division: The report raises safety concerns in relation to the proposed access and recommends the omission of the proposed shutter door and parking space. The non provision of parking is accepted. The report recommends a grant of permission subject to 3 no. conditions including removal of the proposed parking space and shutter door.
- Drainage Division: No objections subject to condition.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

None.

## 4.0 Planning History

The following planning history relates to the appeal site:

- PA Ref. 3922/23 – permission refused in August 2023 for demolition of the existing garage and construction of a detached dwelling on site. The reasons for refusal related to (1) substandard private open space and impact on the residential amenity of the area, (2) poor quality of residential amenity for future occupants on the basis of substandard internal floor areas, bedroom sizes and room widths and (3) substandard design and impact on the visual amenity of the streetscape.
- PA Ref. 2332/10: Application for demolition of garage and construction of residential unit deemed withdrawn.
- PA Ref. 3883/00: Permission refused in January 2001 for 2 storey apartment block on site. The reasons for refusal related to inadequate private open space, impact on residential amenity of adjoining residential property, insufficient park and inadequate bedroom size and internal floor areas.

## 5.0 Policy Context

### 5.1. Development Plan

#### Dublin City Development Plan 2022-2028

The Dublin City Development Plan 2022-2028 is the operative Development Plan for the area.

#### Chapter 5 – Quality Housing and Sustainable Neighbourhoods

The following policies and objectives of the Plan are of relevance to the proposal:

- Policy QHSN6 - Urban Consolidation To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.
- Objective QHSNO4 - Densification of Suburbs To support the ongoing densification of the suburbs and prepare a design guide regarding innovative housing models, designs and solutions for infill development, backland development, mews development, re-use of existing housing stock and best practice for attic conversions.

#### Chapter 14 – Land Use Zoning

The site is zoned Objective Z1 “Sustainable Residential Neighbourhoods” with an objective “To protect, provide and improve residential amenities”.

Residential is listed as a permissible use on lands zoned for Objective Z1 purposes.

#### Chapter 15 - Development Standards

Section 15.8 of the Plan relates to Development Management Standards for Residential Development. The following guidance is of relevance:

- 15.11.1 Floor areas Houses shall comply with the principles and standards outlined in Section 5.3: ‘Internal Layout and Space Provision’ contained in the DEHLG ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007)

- 15.11.2 Aspect, Daylight / Sunlight and Ventilation

The orientation and layout of house units should maximise the use of natural daylight and sunlight as much as possible. Where feasible, the main habitable rooms (living / kitchen) should have south and/or west facades. Rear private garden should be sufficiently sized and orientated to ensure direct sunlight access is achieved for part of the day on March 21st. Living rooms shall not be lit solely by roof lights. Bedrooms solely lit by roof lights will be considered in certain circumstances on a case by case basis. All habitable rooms must be naturally ventilated and lit.

- 15.11.3 Private Open Space

Private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10 sq. m. of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city. In relation to proposals for house(s) within the inner city, a standard of 5– 8 sq. m. of private open space per bedspace will normally be applied. These standards may be relaxed on a case by case basis subject to a qualitative analysis of the development.

- 15.13.3 Infill /Side Garden Housing Developments:

The development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites and to a high standard of design, can constitute valuable additions to the residential building stock of an area and will generally be allowed for by the planning authority on suitable large sites. The planning authority will favourably consider the development of infill housing on appropriate sites, having regard to development plan policy on infill sites and to facilitate the most sustainable use of land and existing urban infrastructure. In general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements. In certain limited circumstances, the

planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed. The planning authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites:

- The character of the street.
- Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.
- Accommodation standards for occupiers.
- Development plan standards for existing and proposed dwellings.
- Impact on the residential amenities of adjoining sites.
- Open space standards and refuse standards for both existing and proposed dwellings.
- The provision of a safe means of access to and egress from the site.
- The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
- The maintenance of the front and side building lines, where appropriate.
- Level of visual harmony, including external finishes and colours.
- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas and the Council will support innovation in design.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable and should be avoided.
- Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained/ reinstated where possible
- Use of first floor/apex windows on gables close to boundaries overlooking footpaths, roads and open spaces for visual amenity and passive surveillance.

## Sustainable and Compact Settlements – Guidelines for Planning Authorities

The following guidance set out within the Sustainable and Compact Settlement Guidelines is of relevance:

- SPPR 2 - Minimum Private Open Space Standards for Houses It is a specific planning policy requirement of these Guidelines that proposals for new houses meet the following minimum private open space standards: 1 bed house 20 sq.m 2 bed house 30 sq.m 3 bed house 40 sq.m 4 bed + house 50 sq.m
- For building refurbishment schemes on sites of any size or urban infill schemes on smaller sites (e.g., sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space.
- Private open space must form part of the curtilage of the house and be designed to provide a high standard of external amenity space in one or more usable areas. Open spaces may take the form of traditional gardens or patio areas at ground level, and / or well designed and integrated terraces and/or balconies at upper level. The open space must be directly accessible from the unit it serves and a principal area of open space should be directly accessible from a living space.

### **5.2. Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

### **5.3. EIA Screening**

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from 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**

A first party appeal was submitted in respect of the notification of decision of Dublin City Council to refuse permission for the development. The following provides a summary of the grounds of appeal:

- The appeal refers to the current use of the site as a dumping ground and issues with rodents.
- The appeal outlines that existing residents in the vicinity are supportive of the development.
- The appeal outlines that the development would not provide substandard residential amenity for future occupiers.
- The character of the area is defined by a mix of dwellings.
- The proposed materials can be agreed with Dublin City Council.
- The applicant outlines that the property is proposed to accommodate a family member.

### **6.2. Planning Authority Response**

- 6.2.1. Dublin City Council provided a response to the grounds of appeal. The Board is requested to uphold the decision of the Planning Authority to refuse permission for the development.
- 6.2.2. In the instance of a grant of permission, the submission requests the inclusion of the following conditions:
- A condition requiring the payment of a Section 48 development contribution.
  - A condition requiring the payment of a contribution in lieu of open space requirement not being met (if applicable).
  - A naming and numbering condition.

## 7.0 Assessment

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Proposal
- Impact on Residential Amenity
- Impact on Visual Amenity
- Appropriate Assessment

### 7.2. Principle of Proposal

7.2.1. The appeal site is zoned for Z1 “Sustainable Residential Neighbourhoods” purposes within the Dublin City Development Plan with an objective “To protect, provide and improve residential amenities”.

7.2.2. The development relates to the construction of an infill 2 storey 2-bedroom house. The policies and objectives of the City Development Plan support infill development. Policy QHSN6 - Urban Consolidation seeks *“To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation”*.

7.2.3. The principle of infill development is therefore supported subject to amenity considerations. Dublin City Council’s notification of decision to refuse permission for the development raises concerns in relation to residential and visual amenity of the development. I consider the reasons for refusal in turn as follows.

### 7.3. Impact on Residential Amenity

7.3.1. Dublin City Council’s first reason for refusal outlines that the development will result in a poor level of residential amenity for future occupants of the dwelling on the basis

of the limited quantum and substandard quality of private open space serving the proposed dwelling.

- 7.3.2. On an overall basis I consider that the proposal would provide a poor level of residential amenity for future occupants of the dwelling. I concur with the concerns raised within the planning authority's first reason for refusal in relation to the quality and quantum of proposed private open space. I note that the ground floor of the dwelling has no functional relationship to the proposed private amenity space area and consider that the quality of amenity of the open space would be substandard in terms of orientation and size.
- 7.3.3. I consider that the quantum and quality of the proposed amenity space is contrary to the requirements of Section 15.11.3 of the Dublin City Development Plan (DCDP). I furthermore refer to SPPR 2 of the Sustainable and Compact Settlements Guidelines for Planning Authorities which sets out following minimum private open space standards for proposed dwelling units including 30 sq.m. for a 2-bed house. The proposed quantum of open space at 25 sq.m. is below this minimum standard. While I note the clause for relaxation of the private open space standards on infill sites subject to overall design quality, I do not consider this applies in the instance of the development proposed.
- 7.3.4. I also consider that the proposed layout would provide a poor level of residential amenity for future occupants of the scheme. Section 15.11.2 of the DCDP relates to Aspect, Daylight / Sunlight and Ventilation and outlines that the orientation and layout of house units should maximise the use of natural daylight and sunlight as much as possible. Where feasible, the main habitable rooms (living / kitchen) should have south and/or west facades. In this regard I note that the proposed ground floor living/dining space is served by 1 no. window opening to the east. I consider that the design and layout as proposed would provide a poor level of residential amenity for future occupants of the scheme and recommend a refusal of permission on this basis.
- 7.3.5. I note the recommendation of the Transport Planning Division to omit the proposed garage and associated vehicular entrance. I accept the concerns raised by the planning authority in relation to the siting of the vehicular entrance and would recommend its omission in the instance that the Board is minded to grant permission

for the development. In my view, the non-provision of in-curtilage parking could be accepted at this location. I consider that there are opportunities for an improved layout on foot of the removal of the garage, but this would be subject to a revised development proposal.

*Impact on Existing Residential Amenity (New Issue)*

- 7.3.6. I also consider that there are information deficiencies within the application in relation to the function of the existing open space area and its relationship to the host property at no. 1 Foyle Road. The site is currently occupied by a shed and is used for parking. The use of the host property is not appropriately identified or addressed within the application. I refer to the requirements of Section 15.13.3 of the DCDP in this regard which relates to open space standards for both existing and proposed dwellings. I do not consider that this is sufficiently addressed within the application.
- 7.3.7. I note that this is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

*Conclusion*

- 7.3.8. On the basis of the information submitted in support of the application and appeal I consider that the proposed development by reason of its poor quality design, layout and limited quantum and quality of private open space provision would provide a poor standard of residential amenity for future occupants of the development and is contrary to the guidance for Infill Development as set out within Section 15.13.3 and Private Open Space as set out within Section 15.11.3 of the Dublin City Development Plan. I consider that the proposal is contrary to the Z1 “Sustainable Residential Neighbourhoods” zoning objective pertaining to the site which seeks “*To protect, provide and improve residential amenities*” in this regard.

**7.4. Impact on Visual Amenity**

- 7.4.1. Dublin City Council’s second reason for refusal outlines that the site is prominent in the context of Philipsburgh Avenue, particularly when approached from the north and raises concern in relation to the visual impact of the development. The decision outlines that the in its poorly detailed façade design would not contribute positively to the character of the street and would not be visually harmonious with the existing

dwellings as required under Section 15.13.3 of the City Development Plan 2022-2028.

- 7.4.2. Section 15.13.3 of the development plan sets out guidance for infill developments within side and rear gardens. Relevant considerations include the compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings and the maintenance of the front and side building lines, where appropriate.
- 7.4.3. The planner's report which informs the decision of Dublin City Council to refuse permission for the development raises concern in relation to the proposed finishes and the breaking of an established building line along Philipsburgh Avenue when viewed from the north.
- 7.4.4. The appeal site is not located within the vicinity of a protected structure, an architectural conservation area or a residential conservation area. On site inspection, I note that the site contributes little to the visual amenity of the area. I note that the proposed building line generally follows that established by an existing window opening on the eastern elevation of no. 1 Foyle Road. Having viewed the site from the surrounding streetscape, including Philipsburg Avenue to the north, I do not consider that the proposed building would protrude significantly beyond the established building line to a manner which would block an existing view or detract from the visual amenity of the area.
- 7.4.5. In terms of the concerns of the Planning Authority raised in relation to the façade design of the proposal, I note that there is a variety on building finishes along Philipsburgh Avenue and Foyle Road including a mix of brick and render. There is a general lack on uniformity in this regard within the area. The application drawings outline that the finishes will match that of those established within the area. I consider that the concerns raised within the planning authority's decision in relation to the detailing of the façade design and finishes could be addressed via condition in the instance that the Board was minded to grant permission for the development. I do not recommend a refusal of permission on this basis.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and small 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**

I recommend that planning permission is refused in accordance with the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. The proposed development by reason of its poor quality design, layout and limited quantum and quality of private open space would provide a poor standard of residential amenity for future occupants of the development and is contrary to the guidance for Infill Development as set out within Section 15.13.3 and Private Open Space as set out within Section 15.11.3 of the Dublin City Development Plan 20022-2028 and the Z1 “Sustainable Residential Neighbourhoods” zoning objective pertaining to the site which seeks “To protect, provide and improve residential amenities”. The proposed development is therefore considered to be contrary to the provisions of the Dublin City Development Plan 2022-2028 and 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.

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Stephanie Farrington  
Inspectorate

6<sup>th</sup> of February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	318696-23			
<b>Proposed Development Summary</b>	demolition of an existing garage and construction of 1 no detached partial two storey 2 bed dwelling and off-street parking.			
<b>Development Address</b>	1 Foyle Road, Dublin 3			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>		X	Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....		Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Form 2

## EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	318696-23	
<b>Proposed Development Summary</b>	demolition of an existing garage and construction of 1 no detached partial two storey 2 bed dwelling and off-street parking.	
<b>Development Address</b>	1 Foyle Road, Dublin 3	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>No. The development is located within an existing urban context.</p> <p>No significant waste, emissions or pollutants are envisaged.</p>	<p>• No</p> <p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>		<p>No</p> <p>No</p>

