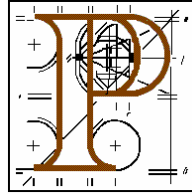


## An Bord Pleanála



### Inspector's Report

**Development:** Construction of a detached two-storey mews house, garage, revised roadside boundary wall and entrance and associated site development works at 7 Woodside Drive, Dublin 14.

### Planning Application

Planning Authority: Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.: D13A/0005

Applicant: Tom Collins

Type of Application: Outline Permission

Planning Authority Decision: Grant

### Planning Appeal

Appellant(s): Rose Marie Gallagher and John Nolan  
John and Rosemary Nolan and Others

Type of Appeal: 3<sup>rd</sup> Party

Observers: None

Date of Site Inspection: 15/07/2013

**Inspector:** L. Dockery

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The subject site, which has a stated area of approximately 454 square metres, forms part of a larger landholding of 7 Woodside Drive, Churchtown, Dublin 14. No 7 Woodside Drive is a substantial detached, three storey residential property, which has the benefit of a very long rear garden area that stretches as far as Woodside to the north-west. Substantial differences in site levels exist, with the subject site being approximately 10 metres lower than the landholding frontage on Woodside Drive. Due to the site layout, together with the existing site levels most developments to the rear of the existing property would not be visible from Woodside Drive.
- 1.2 The site is located on the County boundary between South Dublin County Council and Dun Laoighre Rathdown County Council. The site is accessed from the Woodside Estate, which in the main is located within the SDCC administrative boundary. However a small section of the estate, namely part of the access road, falls within the administration of Dun Laoighre Rathdown County Council.
- 1.3 An entrance onto the site currently exists from Woodside and high stone wing walls are evident. There is presently a detached structure on site, described in the public notices as being a structure incidental to the enjoyment of the dwelling house, which is proposed for demolition. The site and the general area is well screened by mature planting. I did not gain access onto the site at the time of my site visit.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposed development, as per the submitted public notices, comprises demolition of existing detached structure for use incidental to the enjoyment of the dwelling house at 7 Woodside Drive, Churchtown, Dublin 14 and construction of a detached two-storey, 4 bedroom mews house comprising 247.6m<sup>2</sup> on a site of 454m<sup>2</sup> which

includes a two car garage, together with a revised roadside boundary wall and entrance and associated site development work.

### **3.0 PLANNING AUTHORITY'S DECISION**

Outline Permission GRANTED, subject to 5 no. conditions

Condition No. 1 states that

'This outline permission relates solely to the principle of the development on this site. Plans and particulars to be lodged for permission consequent to this grant of outline permission shall include details relating to layout, siting, height, design and external appearance of the proposed building and means of access thereto

REASON: In the interests of clarity and the proper planning and sustainable development of the area'

Condition No. 4 states that

'Any future planning application for full permission or equivalent shall include a Tree survey and Impacts Assessment undertaken by a qualified arborist in accordance with BS 5837-2012, Trees in relation to Design, Demolition and Construction. The scope of the survey and assessment should include trees adjoining the proposed development, including those outside the application site

REASON: In the interest of protecting the sylvan character of the area'

### **4.0 TECHNICAL REPORTS**

#### Planner's Report

The Planner's report generally reflects the decision of the Planning Authority.

Water Supply Report, Ballyogan Depot (dated 06/02/13)

Conditions attached

Transportation Department (report dated 22/02/2013)

No objections, subject to conditions

Parks and Landscape Services (dated 04/02/2013)

No objection in principle, conditions attached

South Dublin County Council, Economic and Transport Planning  
Department

- Concerned about poor visibility onto Woodside Estate- application has not demonstrated that they can achieve the required 70m visibility splay and would need to show this
- Concerns about size of proposed garage- insufficient depth- garage may not be used due to its inadequate size, requiring the homeowner to park on the street- access road is narrow and not suitable for on-street parking

South Dublin County Council, Planning Department

No objections, subject to conditions

## **5.0 APPEAL GROUNDS**

The grounds of appeal received from Rose Marie Gallagher and John Nolan may be summarised as follows:

- Outlines site history
- Proposal by virtue of its size, bulk and height would detract from and seriously injure the amenities to a much greater extent and depreciate the value of property in the vicinity

- To grant permission for the proposed development could lead to further demands for similar development and would seriously injure amenities and depreciate value of property in new estate
- Granting of permission for a garage on this site was never intended to make this a residential site
- Access to proposed development would constitute a potential danger
- Privacy would be grossly compromised- issues of overlooking
- Integrity of Woodside development would be completely compromised by granting of permission- create precedent
- Roadway was never intended to provide access to the rear of houses on adjoining estates
- No concurrent application with South Dublin County Council
- Includes copies of planning histories as part of submission

The grounds of appeal received on behalf of John and Rosemary Nolan and Others may be summarised as follows:

- Outlines procedural issues in relation to site notice and newspaper
- Contends that there is non-compliance with conditions of previous grant of permission
- Concerns regarding precedent for similar developments opening onto Woodside
- Considers proposal will reduce amenity of nearby dwellings
- Quotes sections of the operative County Development Plan

- Overlooking of existing rear garden areas to Woodside- separation distance of less than 18 metres- does not meet standards for such as outlined in County Development Plan and will impact on privacy levels
- Constitutes backland development
- Serious injury to private open space amenity of existing dwellings by virtue of overlooking
- Gates would appear to be automated sliding and this contravenes standard set out in County Development Plan
- Proposal creates a danger to cars entering the development as the minimum sightline standards are not achieved- have measured a maximum of 25 metres of sightline – 70m sightline cannot be achieved- would result in serious hazard
- Proposed garage not deep enough to accommodate a car and existing spine road not wide enough to take on-street parking- therefore difficult to see how parking requirements of current County Development Plan can be met
- Stated that the current vehicular entrance has the benefit of planning permission (PL06D.102268)- but appellants outline non-compliance with condition of this grant of permission
- Existing ditching to the footpath creates a blockage for roadside storm drainage
- Breaking of existing footpath presents a risk to children by having to cross onto the road in the event of vehicles entering or egressing the proposed site
- Existing site does not comply with operative County Development Plan minimum standards in relation to management of gravel

## 6.0 RESPONSES

A response was received from the planning authority which states that they have no further comment to make in this regard.

A response was received on behalf of the first party and this may be summarised as follows:

- Outlines site context, planning history and details of proposed development, together with extracts from the Planning Authority's assessment
- Procedural issues raised are a matter for the planning authority at the time of lodgement
- Issue raised in relation to setback of new gate is matter for enforcement, if necessary and in any case a new full application can address and resolve the issue
- With regards issue of precedent, decision of ABP are made of merits of each case and do not create a precedent- no possibility of a precedent due to the topography and zoning provisions elsewhere
- This application complies with RES4 in that it is contributing to the housing stock of new buildings located within existing residential areas where services are available- proposal will not injure the residential amenities of nearby dwellings
- Front windows of this new house address the side gables of houses on Woodside and so the issue of opposing windows does not arise- distance involved of 18metres across a public road is considerable and will ensure no overlooking of these houses

- Should be evaluated in the context that the overlooking of rear gardens of houses on Woodside by neighbouring gardens is the norm
- Will regards creating a blockage for storm drainage, the convex dishing can be removed thereby resolving the issue- existing footpath can be properly dished in this context
- Not correct to say that all existing dwellings open onto cul-de-sac type roads and none are accessed directly from main primary road- existing dwellings on one side of spinal road initially then on both sides- these houses have multiple dished footpaths creating vehicles access into these houses
- In relation to garage size, the design at full application stage can provide a garage depth of 4.8m if required- this is matter for application stage not outline permission stage
- Most of the footpaths within the estate have multiple vehicular entrances opening out onto roadway, across the footpaths and children have no difficulty and are not required to step onto roadway
- Provision of one third of garden grass or landscaped can be easily achieved at full application sage. Equally, measures to ensure that gravel does not escape onto roadway can be addressed at full application stage
- Contends proposed development is not backland as new dwelling would open out onto a pubic roadway
- No overlooking from proposed new dwelling
- Previous refusal on site date back to early 1990s and are not relevant- issued raised were overcome by subsequent grants of permission



- Condition of ABP stated that the access not be used for any other purpose except with a prior grant of planning permission. This is not a blanket refusal in perpetuity of other uses as implied by the appellants
- Entrance is located within a housing development where speeds are low and where any driver expects movements in/out of properties. Stretch of roadway has no entrances at this point therefore less dangerous than other points within estate
- Level of privacy would not be compromised
- Proposed site and half the roadway in front of it are fully within administrative area of Dun Laoighre Rathdown County Council- application has been properly adjudicated on in that context

## **7.0 OBSERVATIONS**

7.1 None

## **8.0 PLANNING HISTORY**

### S97A/0007 (PL06D.102268)

Permission GRANTED for a new vehicle access point from adjoining Woodside estate at the rear

### S96B/0277

South Dublin County Council REFUSED permission for a vehicular entrance

### D96A/0134 (PL06D.099156)

Permission GRANTED for a garage at rear with vehicular access and 3 metre high wall onto Woodside

D95A/0718

Permission REFUSED for garage with storage loft at rear with a 3m high wall and vehicular access onto Woodside

D94A/0616 (PL06D.095178)

Permission REFUSED for 128m<sup>2</sup> two-storey garden store at rear of No. 7 Woodside Drive by virtue of its size, bulk and height detracting form and seriously injuring the amenities and depreciation of the value of property in the vicinity

## **9.0 DEVELOPMENT PLAN**

The Dun-Laoghaire Rathdown Development Plan 2010-2016 is the operative County Development Plan for the area.

### Zoning

The site is covered by the 'Objective A' the objective for which is "to protect and/or improve residential amenity".

There is an objective to 'protect trees and woodland' in the general vicinity of the site

The strip of land between the rear boundaries of houses on Woodside Drive and Woodside is zoned 'Objective F' within the South Dublin County Development Plan 2010-2016 which seeks to 'preserve and provide for Open Space and Recreational Amenity'

Section 16.3 Residential Development

Section 16.3.4 Additional Accommodation in Existing Built-Up Areas

Section 16.10.9 Vehicular Entrances- General Residential

## **10.0 ASSESSMENT**

10.0.1 Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of proposed development
2. Impact on amenity of the area
3. Traffic and access issues
4. Drainage issues
5. Other issues

## **10.1 PRINCIPLE OF PROPOSED DEVELOPMENT**

10.1.1 The subject site is located within an area, which is zoned 'Objective A' within the operative County Development Plan, which seeks to 'to protect and/or improve residential amenity'. This objective is considered reasonable. I note that there are no other special designations within the immediate vicinity, aside from a general objective to preserve trees and woodlands in the vicinity. As has been stated above, the proposal is for outline permission for a four-bedroom mews dwelling in the rear garden area of an existing detached dwelling. There is currently an entrance from the site onto Woodside estate and it is proposed to utilise this as a means of access to the proposed development.

10.1.2 Section 16.3.4.vi of the operative County Development Plan which relates to backland development is considered not to be applicable in this instance. Although the proposal is located within the rear garden area of an existing dwelling, it is somewhat unusual in that it has its own frontage onto a roadway; has access onto Woodside estate and does not have to share an entrance with the existing dwelling. Due partly to the substantial differences in site levels, together with the

length of the rear garden area and the fact that it has frontage onto Woodside, the proposal, if permitted would not read having any relationship as such to the existing dwelling on site. The subject site is located within a zoned residential area and the rear garden area is such that I feel it can accommodate an additional dwelling of appropriate size and scale, without detriment to the amenities of the existing development in the vicinity. I therefore consider that the proposed development is acceptable in principle.

## **10.2 IMPACTS ON THE AMENITY OF THR AREA**

10.2.1 The issue of impacts on the amenity of the area have been raised within the submissions received and I acknowledge the concerns expressed therein. However, having visited the site and its environs, I consider that the impacts on the amenity of the area would not be so great as to warrant a refusal of permission in this instance. In terms of overlooking, I note that the existing dwellings opposite within Woodside are gabling onto the roadway and that a public roadway separates the proposed dwelling from those opposite. Therefore direct overlooking is not expected to be an issue. I also note the height of the existing site boundary wall which, if retained at this height would greatly shield any proposed development from public view. However, in order to avoid any issues of perceived overlooking, in particular of private open space opposite, the possibility of high level windows should be examined at first floor level to the front elevation in any application subsequent on a grant of outline permission. If the Bord is disposed towards a grant of permission, I recommend that this issue be dealt with by means of condition. I note the conceptual design of the proposed dwelling submitted, together with the height, orientation and setback from boundaries of the proposed development, and I consider that levels of

overlooking, overshadowing and impacts on privacy would not be excessive in this instance.

10.2.2 The footprint of the proposed dwelling is generally considered acceptable in principle and if permitted would integrate well at this location. Exact details of the design, materials, height and elevational treatment would be assessed in an application made subsequent on grant of outline permission. Adequate private open space is being provided to both the existing and proposed properties to comply with Development Plan standards. I have no information before to believe that the proposed development, if permitted would lead to devaluation of property values in the vicinity.

10.2.3 Concerns have been expressed with regards to setting of a precedent for further similar developments in the vicinity. From an examination of the submitted maps, it would appear that this situation is unlikely to arise. The subject site forms part of a very long rear garden area that could easily accommodate a development of the nature and scale proposed. Other rear gardens while relatively long, would not have the same length available to them to carry out a similar type development. In addition, I note that the strip of green between the boundary of the rear gardens of Woodside Drive and the roadway of Woodside is zoned for open space provision within the South Dublin operative County Development Plan. Any such development would have to pass over the open space for access purposes and I query how likely a grant of permission for such an access would be. The subject site does not have to traverse over such open space zoned lands, and has an existing entrance in place, thus differentiating it from other rear garden areas in the vicinity. In any event, each application is assessed on its own merits.

10.2.4 The Parks and Landscape Section of the Planning Authority request a Tree Survey with Impact Assessment be undertaken in any consequent application. Considering the general objective within the area to protect trees and woodlands, I consider that to be a reasonable

request. I therefore recommend that if the Bord is disposed towards a grant of outline permission, that a condition in this regard be attached to any such grant.

10.2.5 Having regard to all of the above, I consider that the proposal is acceptable in principle and if permitted as proposed would not detract from the visual or residential amenity of the area.

### **10.3 TRAFFIC AND PARKING ISSUES**

10.3.1 The submissions received express concern about the use of the existing entrance as a means of access to the proposed development and raise concerns in relation to the creation of a traffic hazard and obstruction of road users. As has been stated above, an entrance is currently in place at this location and it is proposed to use this existing entrance as a means of access to the proposed development. This is considered reasonable.

10.3.2 I note the issues raised in relation to the creation of a traffic hazard at this location and obstruction of road users. I note the scale and nature of the development proposed, namely a single dwelling unit. I again note the report of the Transportation Department of the planning authority in this regard who has no objections to the proposed development, subject to conditions. Speeds are relatively low at this point, due to the location of the site within a residential area and vehicular movements are to be anticipated within such areas. In addition, the amount of traffic generated from this single residential dwelling would be quite minimal. I have no information before me to believe that the proposed development if permitted would lead to the creation of a traffic hazard at this location or lead to the obstruction of

road users. I therefore consider the traffic and access arrangements to be sufficient in this instance. However exact details relating to sightlines, dishing of kerbs and entrance details, including gates should be submitted at the time of any application consequent on a grant of outline permission.

10.3.3 In addition, exact details relating to the size of the proposed garage should be agreed in any future application. Any proposed garage should have the capacity to accommodate a standard size vehicle.

#### **10.4 DRAINAGE ISSUES**

10.4.1 There have been some concerns expressed relating to compliance with current drainage standards, in particular with regards to the finishes proposed to the garden area. I note that Condition No. 2 of the decision which issued from the planning authority dealt with water supply and drainage arrangements and this is considered acceptable. Exact details should be submitted with any application consequent on a grant of outline permission and I recommend that if the Bord is disposed towards a grant of permission, that a similarly worded condition to that attached by the planning authority be included in any such grant. I have no information before me to believe that the proposed development if permitted would be prejudicial to public health.

#### **10.5 OTHER ISSUES**

10.5.1 The proposed development comprises an application for outline permission for the construction of a four- bedroom mews dwelling in the rear garden area of an existing dwelling, within a zoned, built-up

location. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to 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.

10.5.2 Issues relating to validation of the application are a matter for the planning authority outside the remit of this appeal.

10.5.3 Issues relating to compliance with conditions of a previous grant of permission are a matter for the enforcement section of the planning authority, outside the remit of this appeal.

## **11.0 CONCLUSION**

11.1 The proposal for outline permission for a detached dwelling is considered acceptable in principle at this residentially zoned location. It is my opinion that the development if permitted would not detract from the visual and residential amenities of the area nor lead to devaluation of property values in the vicinity. Issues of overlooking, overshadowing or impacts on privacy are considered not to be excessive in this instance. The proposal is also considered to be substantially in compliance with relevant Development Plan policy.

11.2 I have no information before me to believe that the proposal if permitted would lead to the creation of a traffic hazard or obstruction of road users at this location. I also have no information before me to believe that the proposal if permitted would be prejudicial to public health.

11.3 Having regard to all of the above, I consider the proposed development to be acceptable and consistent with the proper planning and sustainable development of the area.



## **12.0 RECOMMENDATION**

In light of the above assessment, I recommend that the decision of the planning authority be UPHELD and that outline permission be GRANTED for the proposed development based on the reasons and considerations under.

## **REASONS AND CONSIDERATIONS**

Having regard to the provisions of the provisions of the Dun Laoghaire Rathdown Development Plan 2010-2016 and to the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential or visual amenities of the area nor would it be prejudicial to public or lead to the creation of a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. Details of site layout, boundary treatment, drainage, design of building and means of access thereto shall be submitted to the planning authority as an application for permission, and a grant of permission shall be obtained prior to commencement of development. In this

regard, the provision of high level windows at first floor level to the front elevation shall be examined.

**REASON:** In the interests of clarity and in the interests of amenity

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**REASON:** In the interest of public health and to ensure a proper standard of development.

3. The applicant shall ascertain and comply with all requirements of planning authority in relation to roads, access and parking issues

**REASON:** In the interests of traffic safety

4. Any future application for full permission or equivalent shall include a Tree Survey and Impacts Assessment, undertaken by a qualified arborist in accordance with BS 5837-2012, Trees in relation to Design, Demolition and Construction. The applicant shall ascertain and comply with all requirements of the planning authority in this regard, including with the scope of this survey and assessment.

**REASON:** In the interests of visual amenity

5. 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 determined by the planning authority on submission of detailed plans for permission consequent the grant of outline permission 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.

**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 applied to the permission.

L. Dockery

Planning Inspector

16<sup>th</sup> July 2013

