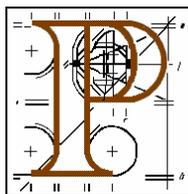


# An Bord Pleanála



## Inspector's Report

PL06S.242662

**DEVELOPMENT:-** Modifications to South County Dublin Reg. Ref. SD11B/0236, including change of roof type and increase in height by 775 millimetres to create a second storey, velux roof lights, windows and associated works at "Capri", Whitechurch Road, Rathfarnham, Dublin 16.

### PLANNING APPLICATION

**Planning Authority:** South Dublin County Council

**Planning Authority Reg. No:** SD13B/0219

**Applicant:** Mark Cunningham

**Application Type:** Permission

**Planning Authority Decision:** Refuse Permission

### APPEAL

**Appellant:** Mark Cunningham

**Types of Appeal:** First party against refusal of permission

**DATE OF SITE INSPECTION:** 4<sup>th</sup> February 2014

**Inspector:** **Andrew Boyle**

## **1.0 THE SITE**

- 1.1** The site is located in Whitechurch, an established suburban area approximately 5.5 kilometres east of Tallaght and 7 kilometres south of Dublin City Centre. The site is that of a small “double fronted” hipped roofed bungalow, “Capri”, dating from the 1930s. This house is derelict. Its roof is holed and it has suffered fire damage.
- 1.2** The site is irregular in shape with a stated area of 0.1534 hectares. Its long axis runs approximately north – south, parallel to Whitechurch Road. At its northern end it has a depth of about 28 metres back from the road. It tapers to a depth of 22 metres at its southern end over a distance of about 65 metres. The existing house is located towards the northern end of the site. The greater part of the site is made up of the side garden to the south of the existing house. Within the site directly beside or close to Whitechurch Road is the Whitechurch Stream, a tributary of the Owendoher Stream, which, in turn, feeds into the River Dodder. This stream enters the site at its southern end, approximately midway along the southern boundary. It then flows in a north-easterly direction through the site, before changing direction again to flow parallel to Whitechurch Road.
- 1.3** On its east side, the site is bounded by Whitechurch Road, on the opposite side of which is a development of 2-storey semi-detached 1950s houses, nos. 44 – 48 (even) Grange Park and a more recent development of 2-storey apartments, Whitechurch Pines. On its south side the site adjoins that of a main motor dealership. On its west side the site adjoins those of nos. 31 – 35 Willbrook Lawn, a development of 1980s gable fronted 2-storey detached houses. On its north side the site adjoins the end unit in a terrace of four 2-storey houses forming part of the 5-house development at Whitechurch Stream.

## **2.0 THE PROPOSED DEVELOPMENT**

- 2.1** It is proposed to demolish the existing bungalow and to build two blocks of 2-storey plus roof space semi-detached houses on the site. The two blocks would be arranged longitudinally on the site with an extensive area for communal car parking between them. This area is shown to have a width of about 16.5 metres and is shown marked to accommodate 8 car parking spaces. The existing entrance bridge over the Whitechurch Stream would be demolished and would be replaced by a new bridge further south, approximately midway along the site frontage. The northern block would be separated from the road

boundary by a maximum of about 10.5 metres at its northern end, reducing to 7.879 metres at its southern end. The southern block would be separated by 7.7 metres at its northern end reducing to 6.849 metres at its southern end. The separation distance of the proposed blocks from the boundary with the houses at Willbrook Lawn would be 6.7 metres at the southern end of the southern block up to 11 metres about midway along the northern block. The proposed houses are shown to have a height of 8.425 metres to their main ridgeline.

- 2.2** Each house would consist of a hall, living room, kitchen/dining room, WC and rear projecting sunroom at ground floor level, two bedrooms, one of them en-suite, a bathroom, study and landing at first floor level and an attic bedroom at second floor level. Each block would have a hipped pitched roof, pitched at 45°. They would have a central projecting double gable treatment at the front incorporating windows for the attic bedroom. Velux roof lights would flank these gables, augmenting their windows and there would be six further high level Velux windows lighting the attic bedrooms on the rear roof slope. The windows at first floor level on the rear elevation would illuminate the study, bathroom and en-suite bathroom. The study windows would be high level horizontal types with obscure glazing. With the exception of the centre rear elevation, each block would be finished in brickwork at ground floor level. The remainder of the walls would be in a self-coloured render. There would be projecting rectangular bay windows at ground floor level on the front elevation beneath copper clad roofs. The main roofs and those of the projecting sunrooms would be clad in slate.

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

- 3.1** On 14<sup>th</sup> October 2013, South Dublin County Council refused permission for this development for one reason. This reason related to material contravention of condition 2 of a previous planning permission under its Reg. Ref. SD11B/0236. Condition 2 of this permission had required that the overall ridge height of the proposed houses should be 7,650 millimetres “**as previously permitted under SD09A/0055 and An Bord Pleanála Ref. No. PL06S.235823**” and that the proposed attic space should be used for storage purposes.

## **4.0 RELEVANT PLANNING HISTORY OF THE SITE**

- 4.1** Under PL06S.235823, the planning authority's decision, under its Reg. Ref. SD09A/0055, to grant permission for the demolition of a house and bridge and construction of four houses with eight parking spaces and a new bridge to Whitechurch Road together with associated landscaping and drainage, was upheld on appeal. The proposed development was similar in layout, style and material finishes to the present proposal, but differed insofar as the houses were to be 2 storeys only. They were to have a gable ended roof with a conventional pitch of about 31° in the additional information submission. They were shown to have a height to ridge level of 7.65 metres. The main rear rooms at first floor level, shown as studies in the present proposal, were shown as such in the case of one house only, with the remaining houses having these rooms designated as bedrooms and their high level windows to the rear supplemented by conventional windows to the side.
- 4.2** Under the planning authority's Reg. Ref. SD10A/0191, permission was refused for modifications to the permitted development under PL06S.235823 (PA Reg. Ref. SD09A/0055). The modifications included an increase in overall height of 775 millimetres to create a second storey with dormer window to the front. Permission was refused for five reasons relating to excessive scale, inadequate information on the access bridge, the non-submission of an Appropriate Assessment screening, the inadequacy of the drainage information and the inadequacy of the information submitted in relation to biodiversity on site. The reasoning relating to the excessive scale of the proposed development noted that its overall scale and 3-storey design on this prominent site of the restricted size and configuration and the massing and bulk of the front gables and dormers would be out of character with the pattern of development in the area and would be unduly visually obtrusive when viewed from Whitechurch Road. The proposed development would, therefore, seriously injure the amenities and depreciate the value of property in the vicinity and would have been contrary to the proper planning and sustainable development of the area.
- 4.3** Under the planning authority's Reg. Ref. SD11B/0236, permission was granted for modifications to PL06S.235823 (PA Reg. Ref. SD09A/0055). The modifications again included an increased overall height of 775 millimetres to create a second storey, but in this case there would have been two velux windows to the front in place of the previously proposed dormers. Condition 2 of the permission required that the overall ridge height of the proposed houses should be 7,650

millimetres as previously permitted and that the proposed attic space should be used for storage purposes.

- 4.4** Under the planning authority's Reg. Ref. SD12B/0140, permission was refused for modifications to the previously permitted development under SD11B/0236, including change of roof type from gable ended to pitched roof and an increase in height of 775 millimetres to create a second storey with a full window to the front elevation and velux roof lights to the front and side roofs and three high level velux roof lights for each house on the rear roof slope. The proposed development was identical to the present proposal and permission was refused by the planning authority for the same reason.

## **5.0 DEVELOPMENT PLAN PROVISIONS**

- 5.1** The site lies within the functional area of South Dublin County Council. It is thus affected by the provisions of the South Dublin County Council Development Plan 2010-2016. Under this development plan, the site is located in an area zoned Objective A – “to protect and/or improve Residential Amenity”.
- 5.2** Following an introduction and core strategy the development plan is subdivided into four themes, namely, a Living Place, a Connected Place, a Busy Place and a Protected Place.
- 5.3** Under the Living Place theme, Section 1.2.20.i sets out Policy H12 on the conservation of existing housing stock. It is policy to conserve the existing housing stock of the county wherever possible. Replacement dwelling units will be considered taking into account the character of the area and scale of the proposed development. This subsection indicates that it is the intention, inter alia, to prevent any new development or change of use which would seriously reduce the amenity of nearby dwellings. Section 1.2.23, on infill development in residential areas, notes that this concerns areas that are largely built-up and where the proposal is not of such a scale that it represents a major addition to or redevelopment of the existing physical fabric. These existing areas, be they older town or village centres, or established suburban residential or mixed use areas, possess individual character. Locations suitable for infill development are noted to include mature residential areas with falling populations. A balance has to be struck between protection of amenities, privacy and established character and the need to provide residential infill. Section 1.2.24 sets out Policy H14 on infill development in residential areas. It

is policy to encourage the consolidation of the county through well designed, responsive infill developments, located where there are good connections to public transport and services and that are compliant with the policies and objectives of the remainder of the development plan.

- 5.4** Section 1.4.16 of the development plan is on building heights. It is stated that new housing outside of town centre and district centre locations which is located immediately next to or backing onto existing 1 and 2-storey housing and sharing a common rear or side boundary should be no more than 2 storeys in height, except in cases where the distance between opposing rear windows in the existing and new residential buildings is greater than 35 metres.
- 5.5** Section 1.4.18.iii, on overlooking and overshadowing, notes that a distance of 22 metres is required between opposing above ground floor windows. The planning authority will favourably consider a reduced distance in certain circumstances, including the consideration that bathrooms and toilets would have obscure openings.
- 5.6** Section 1.4.22 relates to internal area standards and Section 1.4.23 sets out Policy SN19 on minimum standards for new residential units. New residential dwellings will be required to comply with the minimal requirements for overall unit sizes, internal room sizes and dimensions as laid down in “Quality Housing for Sustainable Communities – Best Practice Guidelines” (2007).
- 5.7** Section 1.4.35.i sets out Policy SN28 on private gardens. These should be located to the rear or side of the front building line of the dwellinghouse and should be overlooked by kitchen or main living rooms. Rear gardens should be provided with a robust, secure, opaque boundary comprising of rendered concrete block wall, capped in an acceptable manner, with a minimum height of 1.8 metres.
- 5.8** Under the Protected Place theme, Policy AA10 relates to the retention of older buildings. It is policy to encourage the rehabilitation, renovation and reuse of existing older buildings, where appropriate.

## **6.0 THE APPEAL**

- 6.1** This is a first party appeal against the planning authority’s refusal of permission for this development.

- 6.2** The appeal notes that the applicant is hoping to improve the design of the dwellings to satisfy current market demand for family housing in the area. He hopes to increase the internal size of the houses by adding an additional bedroom at attic level, thereby resulting in three bedrooms. It is submitted that the proposed alterations are minor in nature and do not have an adverse impact on adjoining properties. The proposed family houses would ensure a positive impact on the character of the area and would have a minimum impact on existing residential amenity. They would be similar in size to existing houses in the area.
- 6.3** The roof would be changed from a low pitched gable ended type to a fully pitched type. This is essential to achieve the third storey for the third bedroom. It is claimed that the amendments to the permitted houses would improve their visual impact on the streetscape.
- 6.4** It is claimed that the height of the proposed houses would be in keeping with the existing area and would be typical of modern 2-storey houses. The setback between the existing and proposed houses would be sufficient to provide for the protection of residential amenity. The ridge height would be increased by 775 millimetres over that approved under Reg. Ref. SD11B/0236, giving an overall height of 8425 millimetres. The proposed Velux rooflights and the windows in the front facing gables would provide natural light into the second floor bedrooms, but the proposed rooflights to the rear could be removed by condition if the Board considered it would reduce the impact on adjoining houses. The Willbrook Lawn houses are 20 – 21 metres away and it is submitted that the additional height proposed would be negligible over this distance. Similarly, at this distance, there would be no undue overshadowing or loss of daylight or sunlight to the Willbrook properties. It is submitted that the proposed roof profile would actually appear to be reduced, as the roof would now be pitched in its entirety.
- 6.5** The appeal considers the planning authority's concerns in relation to massing and scale to be exaggerated. The scale of development is appropriate for the site and the scale, mass and form of the houses would be broadly similar to the existing residential development in the area. It would make a positive visual contribution to the streetscape.
- 6.6** A visual buffer would be provided between the new houses and the houses at Willbrook Lawn. This would be achieved through the planting of semi-mature trees at the western boundary.

**6.7** The appeal notes that a landscape plan has been prepared for the site. An objective of this plan is the protection of the existing river which covers 9% of the site area. The houses would be setback 4 – 5 metres from the river edge and an open area of riverside landscaping would be provided with protective railings. The car parking area at the centre of the site taking up 16% of the site area would also be landscaped.

## **7.0 RESPONSE OF THE PLANNING AUTHORITY**

**7.1** The planning authority has responded to the grounds of appeal by stating that it confirms its decision and that the issues raised in the appeal have been covered in the planner's report.

**7.2** The planner's report notes that the present proposal with its increased roof height and roof space accommodation is unchanged from elements of the development previously proposed under Reg. Ref. SD11B/0236, save for the proposed change in roof profile from full gable to hipped. The principle of the development previously considered and addressed by way of condition under SD11B/0236 is unchanged. It was considered that the proposed development would materially contravene condition 2 of this earlier permission. The planner considered that given the context of the site, its proximity to the public road and residential development to the rear, the scale and massing proposed by the additional height would have an adverse impact on both residential and visual amenity. The permission under PL06S.235823 had already determined that a maximum height of 7650 millimetres was acceptable at this location. It was felt unlikely that an increase in height, together with an alternate roof profile would satisfactorily tackle the issue of overbearing appearance.

## **8.0 LETTERS TO THE PLANNING AUTHORITY**

**8.1** Four letters of objection to the proposed development were received by the planning authority. Three of these were from the residents of individual houses in Willbrook Lawn, namely nos. 31, 33 and 34, all backing onto the appeal site. The fourth letter was from the Willbrook Lawn Residents' Association.

**8.2** The letters note the planning history of the site consisting of refusals or reductions in height to 7.65 metres. The contiguous elevation through Willbrook is felt to be misleading and drawings are submitted showing a Willbrook Lawn house superimposed on the front elevation of the

proposed development to demonstrate the difference in scale. The proposed development would be just 18 metres from the houses to the rear – considerably less than the normal 22-metre standard. The houses would now be 60 centimetres closer to Willbrook Lawn than previously proposed. There are concerns in relation to traffic generation and that the proposed obscure glazed windows to the rear would be replaced by clear glazing at some future date.

## 9.0 ASSESSMENT

9.1 In my view, the principle of a development of the type now proposed on this site was established with the granting of permission under PL06S.235823, upholding the planning authority's decision under its Reg. Ref. SD09A/0055, for the demolition of the existing bungalow and the construction of four semi-detached 2-storey houses.

9.2 The permitted development under PL06S.235823, which had been modified during the course of the application with the submission of additional information, would have a main first floor depth of about 7.4 metres. In the present proposal, the first floor is shown to have a depth of 8.1 metres. However, in the earlier proposal, the depth at ground floor level was 8.1 metres. It appears to be the intention in the present proposal to repeat the building depth at both floor levels. Accordingly, the concerns of the objectors to the planning authority that the proposed development would be 0.6 metres closer to the houses on Willbrook Lawn would appear to be unfounded. The separation distances shown to the boundaries of nos. 31 Willbrook Lawn and 34 Willbrook Lawn, which are the same as those shown on PL06S.235823 should be just as achievable in the present instance.

9.3 The appeal statement refers to the additional height of 775 millimetres as “**minor**”. It disputes the planning authority's concerns in relation to massing and scale and overbearing appearance, holding these concerns to be exaggerated. The increased height would be “**minimal and would have no adverse visual impact**”. I disagree with these contentions. The drawing from one of the objectors showing the outline of a Willbrook Lawn house superimposed on the front elevation of the proposed development demonstrates the sheer difference in scale between these adjoining developments. It should be noted that the Willbrook Lawn houses are the largest in the locality.

9.4 The drawings lodged with the present application include a front and rear elevation of the proposal under the planning authority's Reg. Ref.

SD11B/0236. It may possibly have been intended that these elevations would be compared with the revised elevations in the present proposal. However, this would be a false comparison as they show the earlier application as proposed, rather than as permitted by the planning authority with a reduction in height to 7.65 metres. The requirement in this earlier permission that the attic should be used for storage purposes might well have resulted, also, in the omission of the very large and visually obtrusive roof lights on the front roof slope. For a true comparison, the proposed front elevation should be compared with the front elevations submitted as additional information under PL06S.235823 and available only as a “contiguous front elevation”. The visual impact of the additional storey, the steeply pitched roof and the additional height to ridgeline then becomes apparent. Two pairs of modest semi-detached 2-storey houses become two blocks of oversized 3-storey houses which are out of scale with the surrounding 2-storey developments, including the relatively recent developments to the north at Whitechurch Stream and diagonally opposite to the southeast at Whitechurch Pines. The bulk and scale of the proposed development would be even more noticeable on the plainer rear elevation which would face towards the houses on Willbrook Lawn.

- 9.5** While it is the case that the back gardens of nos. 36 and 37 Willbrook Lawn are shorter than those of nos. 31 – 35 backing onto the appeal site, I note that the adjoining houses at Whitechurch Stream are of a special design which avoids overlooking and also the bulk and visual obtrusiveness of the present proposal. The Whitechurch Stream houses are two storeys at the front, but they have an asymmetrically pitched roof so as to be a high single storey at the rear with rooflights.
- 9.6** The appeal statement repeatedly refers to the modifications to the permitted development catering to market demand for 3-bedroomed family houses. This ignores the reality that the studies at first floor level, with the dimensions of double bedrooms, would be likely to be used as such, despite only having a high level window. The applicant has already received permission for 4-house development, with three of the houses accommodating three bedrooms and the fourth having a study as in the present case, in a 2-storey development under PL06S.235823. Rather than omitting a sideways facing window in the fourth house to prevent mutual overlooking of the rooms facing across the central parking area, it should be possible to incorporate an angled oriel window facing towards a corner of this parking area.
- 9.7** Overall, I consider that the height and volume of development, as permitted under PL06S.235823 should be regarded as setting a

reasonable precedent for the limit of development potential on this site of restricted depth backing onto existing housing. As suggested in the previous paragraph, it should be possible with minor alterations from the development permitted under SD11B/0236 to achieve a development of four genuine 3-bedroomed houses. I consider that the planning authority's decision should be upheld in this instance.

**9.8** I note the policy of the planning authority under section 1.4.16 of its development plan, as quoted at paragraph 5.4 above. However this appears to relate to situations where there are opposing windows above first floor level. As the windows at first and second floor level in the present proposal would not readily allow overlooking, I do not consider that a refusal on the basis of contravention of section 1.4.16 would be warranted.

**9.9** (The house numbers quoted for Willbrook Lawn in this report are as shown on the Ordnance Survey map and adopted in the planning documentation. However, it appears that the actual house numbers to the rear of the appeal site should be 30 to 34.

The position of "Capri" is misrepresented on the Existing Site Plan, c.f. Urban Place Map, and the site is so overgrown that it has not been possible to resolve the discrepancy in the boundary to its rear. However, these shortcomings are not material to reaching a decision on the appeal.)

## **10.0 RECOMMENDATION**

**10.1** Having regard to the foregoing, I recommend that the planning authority's decision be upheld in this instance and that permission be refused for this development for the reasons and considerations set out below.

## **REASONS AND CONSIDERATIONS**

1. The proposed development by reason of its excessive height and bulk and its steeply pitched roof profile would constitute an incongruous and visually obtrusive form of development on a site of limited depth from front to rear. The proposed development would, therefore, seriously injure the visual amenity of the established residential development in the vicinity and particularly that of the adjoining houses to the west at

Willbrook Lawn. The proposed development would, accordingly, be contrary to the proper planning and sustainable development of the area.

2. The proposed development would contravene, materially, a condition attached to a previous permission for development at this site under South Dublin County Council Reg. Ref. SD11B/0236. This condition requires that the overall ridge height of the proposed houses should be 7,650 millimetres as previously permitted under PL06S.235823 (South Dublin County Council Reg. Ref. SD09A/0055). It requires also that the proposed attic space should be used for storage purposes. This condition is considered to be reasonable having regard to the height, scale and character of the surrounding residential development. The proposed development would, accordingly, be contrary to the proper planning and sustainable development of the area.

---

**Andrew C. Boyle,**  
**Senior Planning Inspector.**  
**6<sup>th</sup> February, 2013.**  
**cr**