



An
Bord
Pleanála

Inspector's Report

ABP-304834-19

Development

Construction of House

Location

Fairways, Violet Hill, Church Road,
Killiney, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D19A/0276

Applicant(s)

Barry Fitzgibbon

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Barry Fitzgibbon

Observer(s)

Paul Murphy

David Allman

Date of Site Inspection

11th October 2019

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.076ha is located at the northern end of Violet Hill, Church Road, Killiney on lands that form part of the adjoining residential unit; Fairways. The site slopes from east to west and affords uninterrupted views of the Dublin Mountains. The site is bounded by Killiney Golf Course to the rear / northeast; existing dwelling “Fairways” to the southeast and existing adjacent residential property “Carrigmore” to the northeast. I note from the history case (PL06D.244922 – site photos refer) that the mature road side boundary has been removed in the interim.
- 1.2. Violet Hill is a T-shaped private cul de sac which runs for circa 230m to the north of Church Road. Violet Hill is characterised by low density residential development, predominantly large detached dwellings of varying forms and appearance.
- 1.3. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Permission was sought from DLRCC on the 25th April 2019 for the construction of a 5 bedroom detached split level dwelling (261.69 sqm) with dormer roof and a 3.5m wide vehicular entrance, construction of a stone wall along the front, the construction of new boundary’s wall between the existing and proposed dwellings and a rear garden of c160sqm all to the side of the existing detached 2 storey house “Fairways”, Violet Hill, Church Road, Killiney. The site will be serviced by public water supply and public sewer. Surface water will discharge to soakpits on site.
- 2.2. The application was accompanied by a Cover Letter prepared by the applicants agent, Dr Diarmuid O’Grada and a Tree, Hedgerow & Vegetation Survey Assessment, Management & Protection Measures Report

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to refuse planning permission for the following reason:

The proposed development is located off Church Road (Regional Road R118), which provides an important part of the link road between Dun Laoghaire Town Centre and the M50/N11, and for which there is a “Six Year Objective” as part of the Cherrywood to Dun Laoghaire Strategic Route (R118 Wyattville Road to Glenageary Roundabout) as identified on Map 7 and Policy ST25: Roads in the Dun Laoghaire Rathdown County Development Plan 2016 - 2022. The proposed development would lead to an intensification of traffic using the existing right-of-way (Violet Hill) accessing onto the heavily trafficked Church Road. The additional traffic turning movements generated onto Church Road, which is a single carriageway with relatively higher speed limit of 60kmh, would result in an increased accident risk at this location and would have a seriously adverse impact on the carrying capacity of the link road. The proposed development would therefore be premature pending the construction of the planned upgrade of Church Road including the objective to provide a Bus Priority Scheme along Church Road, would have a negative impact on the accident risk and capacity of the strategic roadway of Church Road, and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- **Case Planner** – Having considered the proposal recommended that permission be refused for a single reason relating to traffic safety. The reason is based on the recommendation of Transportation Planning (see below). The notification of decision to refuse permission issued by DLRCC reflects this recommendation.

3.2.2. Other Technical Reports

- **Drainage Planning** – Further information sought in relation to surface water drainage, rainwater harvesting tank soakpit, infiltration test on the location where the soakpit is proposed (if the test turns a negative result an alternative proposal shall be proposed) and provision of permeable hardstanding.
- **Transportation Planning** – Reference is made to the Six Year Road Objective as part of the Cherrywood to Dun Laoghaire Strategic Route (R118 Wyattville Road to Glenageary Roundabout) in Table 2.2.5 of the County Development Plan (2016-2022) and Table 2.2.3 where Church Road is also listed as part of a proposed QBC along the R118 from Wyattville to Dun Laoghaire. It is stated that a preliminary design and EIS has been prepared for the road upgrade and QBC scheme, which envisages a dual carriageway on Church Road.

Transportation Planning state that new residential developments exiting directly onto Church Road should not proceed prior to the construction / completion of the planned upgrade of Church Road, including the QBC scheme for the following reasons as summarised:

- 1) The development would lead to an intensification of traffic using the existing right-of-way (Violet Hill) accessing onto Church Road (Regional Road R118)
- 2) Additional traffic turning movements generated by the development onto the heavily trafficked Church Road would result in an increased accident risk at the right-of-way accesses onto Church Road (Regional Road R118)
- 3) Additional traffic turning movements onto the heavily trafficked Church Road, would have a seriously adverse impact on the carrying capacity of the link road.
- 4) The development would set an undesirable precedent

3.3. Prescribed Bodies

- **Irish Water** – No objection

3.4. Third Party Observations

- 3.4.1. There are two observations recorded on the planning file from (1) David Allman, The Pyramids, Violet Hill and (2) Paul Murphy, Carrig Mor, Violet Hill. The issues raised relate to surface and ground water, house design, opening of entrance at the site leading to a serious security risk, traffic safety, cost of rock removal, recent refusal on grounds of being premature, squeezing a new house into an unsuitable site, drainage and flooding, Violet Hill laneway is not capable of taking any more traffic and missing details.

4.0 Planning History

- 4.1.1. There was a previous planning appeal on this appeal site that may be summarised as follows:

PL06D.244922 (Reg Ref D15A/0181) – DLRCC granted outline permission subject to conditions for a house and vehicular entrance to the side of existing house(Fairways). The decision was appealed by a third party. The Board granted permission in 2015 subject to 4 no conditions. Condition No 1 is of note where it stated as follows:

This outline permission relates solely to the principle of the development of a single storey house with dormer elements or a split level house on this site. Full details in relation to the layout, siting, height, design and the external appearance of the proposed house, boundary treatments and an accurate tree survey carried out by an arborist shall be submitted to the planning authority with any application for planning permission consequent on the grant of this outline permission. No works shall be commenced on site without a grant of permission consequent.

Reason: *In the interest of clarity.*

- 4.1.2. Reference is also made the following planning application in the appeal submission and in the report of DLRCC Transportation Planning:

Reg Ref D16A/0619 – DLRCC granted planning permission for the change of house type from a two storey dwelling form previously approved planning

application Reg Ref D08A/1195 with revised landscape details, domestic garage, with ancillary site works at site adjacent to Aspen, Violet Hill, Killiney subject to conditions.

4.1.3. It is further noted that there was a recent appeal on a site further east on Violet Hill that may be summarised as follows:

ABP-303043-18 (Reg Ref D18A/0838) – DLRCC refused permission for the construction of a two storey house, at Aspen, Violet Hill, Church Road, Killiney for two reasons summarised as follows:

- 1) Development would be premature pending the determination of the road layout of the area and the detailed design for the proposed Bus Priority Scheme
- 2) The additional traffic turning movements onto the heavily trafficked Church Road, which provides an important part of the link road between Dun Laoghaire town centre and the M50/ N11, and for which there is a six-year road objective as part of the Cherrywood to Dun Laoghaire Strategic Route (R118 Wyattville Road to Glenageary roundabout) as identified on Map 7 and Policy ST25: 'Roads' in the Dun Laoghaire Rathdown County Development Plan, 2016-2022, would endanger public safety by reason of traffic hazard.

The decision was appealed by the first party. The Board granted permission subject to 7 no conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned **Objective A** where the objective is *to protect and/or improve residential amenity*.

5.1.2. Relevant policies and objectives include:

- **Policy UD1: Urban Design Principles** - *It is Council policy to ensure that all development is of high quality design that assists in promoting a 'sense of place'. The Council will promote the guidance principles set out in the 'Urban*

Design Manual – A Best Practice Guide’ (2009), and in the ‘Design Manual for Urban Roads and Streets’ (2013) and will seek to ensure that development proposals are cognisant of the need for proper consideration of context, connectivity, inclusivity, variety, efficiency, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking, wayfinding and detailed design.

- **Section 8.2.3.1 Quality Residential Design** - *It is Council policy to promote high quality design and layout in new residential development. A core aim of land-use planning is to ensure that new residential developments offer a high quality living environment for residents, both in terms of the standard of individual dwelling units and in terms of the overall layout and appearance of schemes.*
- **Section 8.2.3.4 (v) Corner/Side Garden Sites** - *Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):*
 - *Size, design, layout, relationship with existing dwelling and immediately adjacent properties.*
 - *Impact on the amenities of neighbouring residents.*
 - *Accommodation standards for occupiers.*
 - *Development Plan standards for existing and proposed dwellings.*
 - *Building lines followed where appropriate.*
 - *Car parking for existing and proposed dwellings.*
 - *Side/gable and rear access/maintenance space.*
 - *Private open space for existing and proposed dwellings.*
 - *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 in order to avoid a pastiche development.*

- *Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.*
- *Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.*

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

- **Section 8.2.3.2** of the Plan sets out quantitative standards for residential development.
- **Section 8.2.8.4** sets out standards for Private Open Space.
- **Section 8.2.8.6** addresses Trees and Hedgerows and states that Arboricultural Assessments carried out by an independent, qualified arborist shall be submitted as part of planning applications for sites that contain trees or other significant vegetation.
- **Policy RES3: Residential Density** - *It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:*
 - *‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009).*
 - *‘Urban Design Manual - A Best Practice Guide’ (DoEHLG 2009).*
 - *‘Quality Housing for Sustainable Communities’ (DoEHLG 2007).*

- *'Irish Design Manual for Urban Roads and Streets' (DTTaS and DoECLG, 2013).*
- *'National Climate Change Adaptation Framework - Building Resilience to Climate Change' (DoECLG, 2013).*

Policy ST12: Quality Bus Network - *It is Council policy to co-operate with the NTA and other relevant agencies to facilitate the implementation of the Bus Network measures as set out in the NTA's 'Greater Dublin Area Draft Transport 2016-2035' and to extend the bus network to other areas where appropriate subject to design, public consultation, approval, finance and resources.*

Policy ST25: Roads - *It is Council policy, in conjunction and co-operation with other transport bodies and authorities such as the TII and the NTA, to secure improvements to the County road network – including improved pedestrian and cycle facilities.*

Table 2.2.3: Proposed Bus Priority Schemes - Cherrywood to Dún Laoghaire via Wyattville Dual Carriageway, Church Road, Sallyglen Road, Upper Glenageary Road and Mounttown Lower (including Graduate and Deerhunter Roundabouts).

Table 2.2.5: Six-Year Road Objectives - Cherrywood to Dún Laoghaire Strategic Route (R118, Wyattville Road to Glenageary Roundabout).

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The nearest Natura 2000 sites are the Dalkey Islands SPA and the Rockabill to Dalkey Island SAC, located c. 2.5 km to the east of the site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development comprising the construction of a new dwelling house in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

6.1.1. The first party appeal against the notification of decision to refuse permission issued by DLRCC has been prepared and submitted by Dr Diarmuid O'Grada on behalf of the applicant and may be summarised as follows:

- The decision to refuse was unreasonable and unjustified as this is an application for a single infill house in a long established housing scheme. In light of the sites planning history submitted that the current proposal could be viewed, in general terms, as being akin to a change of house type.
- This is a suburban context, the plot is very spacious and far exceeds what has been frequently allowed during the past decade within a range of two or three kilometres.
- These plots originally relied on individual septic tanks. With the advent of mains drainage infrastructural improvements should be taken into account and reflected in subsequent decisions. In this context the parent property has become underutilised and there is now ample scope for a serviced house plot.
- This application follows the template of the grant of outline permission on the site. This includes the house type and position. The context for the current assessment has not changed in any material way since the grant of outline permission.
- The objectives for Church Road have not changed at all viz the 6 year road proposal and the proposed quality bus / bus priority route (QBC). Submitted that the QBC and the 6 year road proposal were included in the previous Development Plan (2010) and the QBC was even in the plan that preceded that (2004) (excerpts provided in the appeal). Submitted that it is not a 6 year plan.
- Reference is made to ABP-303043-18 (Reg Ref D18A/0838) where many of the same issues arose in the assessment by the Boards Inspector.
- Reference is also made to other precedents (D19A/0198) where permission was granted for the extension of a childcare facility at Church Road where the

Case Planner cites the Development Plan objectives for Church Road and where the Transportation Planning Section raised no objections.

- Requested that permission be granted subject to the conditions set out in the appeal.

6.1.2. The appeal was accompanied by a copy of decision PL06D.244922 (Ref Reg D15A/0181 refers).

6.2. Planning Authority Response

6.2.1. DLRCC states that it is *not proposed to respond in detail to the grounds of appeal as the Planning Authority considers that the comprehensive planning report deals fully with all the issues raised and justifies its decision.*

6.3. Observations

6.3.1. There are two observations recorded on the appeal file as follows:

- 1) David Allman, The Pyramids, Violet Hill – The issues raised relate to traffic safety, surface water and privately owned watermain with poor water pressure for fire hydrants.
- 2) Paul Murphy, Carrig Mor, Violet Hill - The issues raised relate to the impact of the scheme on the character and amenities of the area, traffic safety, inadequate drawings and damage to trees. The observation submitted to DLRCC was attached. A summary of same if provided in Section 3.4 above.

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Traffic
- Design

- Other Issues

7.2. Principle

- 7.2.1. The operative plan for the area is the Dun Laoghaire Rathdown County Council 2016 – 2022. Under the provision of this Development Plan the site is zoned Objective A which seeks to protect and / or improve residential amenity and where residential development is permitted in principle subject to compliance, with the relevant policies, standards and requirements set out in plan.
- 7.2.2. The proposed development is in accordance with development plan policy providing for the densification of existing residential areas, infill development and standards of residential development. I am satisfied that the proposed dwelling will provide satisfactory recreational amenity area for the future residents of the proposed dwelling.
- 7.2.3. However, I am concerned with the protection of privacy and residential amenity of the adjoining dwellings in particular Fairways (parent house) having regard to the design of the dwelling and proliferation of side windows. Accordingly the substantive issue to be addressed in this case is that of design and traffic and compliance with development plan policy.

7.3. Traffic

- 7.3.1. DLRCC refused permission as the proposed development would lead to an intensification of traffic using the existing right-of-way (Violet Hill) accessing onto the heavily trafficked Church Road, an important link road that is subject to a six year upgrade objective and that would result in an increased accident risk and have a seriously adverse impact on the carrying capacity of the link road. This reason was based on the recommendation of Transportation Planning (see Section 3.2 above).
- 7.3.2. Transportation Planning state that until Church Road is upgraded in accordance with the DLRCC Development Plan 2016 – 2022 and the objective to provide a Bus Priority Scheme along Church Road (part of the route from Cherrywood to Blackrock), that any increased residential development at this location will have a negative impact on the accident risk and capacity of this busy strategic road, with

increase turning movements etc, and would therefore be contrary to the proper planning and sustainable development of the area.

- 7.3.3. As documented, the appeal site is located off Church Road (Regional Road R118), an important part of the link road between Dun Laoghaire Town Centre and the M50/N11, and for which there is a “Six Year Objective” to upgrade this road as part of the Cherrywood to Dun Laoghaire Strategic Route (R118 Wyattville Road to Glenageary Roundabout) as identified on Map 7 and Policy ST25: Roads in the Dun Laoghaire Rathdown County Development Plan 2016 - 2022. See Section 5.1 above.
- 7.3.4. It is noted that the Board granted permission in 2018 for a development of 102 no. residential units (ABP-301334-18) and 42 no. units (ABP-301148-18) onto Watson Road. A substantial portion of the traffic generated by both developments will likely access onto Church Road. It is noted that the impact of such additional traffic generation was not considered by the Board to compromise the bus or road objectives on Church Road. Nor were the developments considered to endanger public safety or create an undesirable precedent that would affect the carrying capacity of Church Road.
- 7.3.5. I refer to the history case adjudicated and granted by the Board on the adjoining site at Aspen, Violet Hill for the construction of a two storey house (ABP-303043-18 (Reg Ref D18A/0838) and the comments of the Planning Inspector who dealt with the case. Having regard to the wider permitted development in the area I too fail to see how a single house would seriously adversely affect the carrying capacity of Church Road or the road objectives for same as set out in the Development Plan.
- 7.3.6. The proposed development does not propose any alteration of the existing road layout and whilst creating a new entrance on Violet Hill, it will have no discernible impact on the road layout of Church Road, utilising as it will an existing access point that has sufficient visibility in both directions. Overall I am satisfied that the construction of a single in-fill dwelling on this residential cul-de-sac will not seriously or adversely affect the stated development objectives of Dun Laoghaire Rathdown County Council for the future upgrade of Church Road in terms of bus priority or road improvements. Recommended that the DLRCC reason for refusal be set aside.

7.4. Design

- 7.4.1. It is the policy of the planning authority, as set out in the current Development Plan for the area, to promote high quality design (Policy UD1: Urban Design Principles and Section 8.2.3.1 Quality Residential Design refers) without compromising the residential amenities of adjoining properties.
- 7.4.2. While the principle of the development is acceptable, I am concerned with the proposed design and scale of the dwelling in terms of depth and the necessity for multiple side gable windows proximate to the parent dwelling; Fairways. This is an elevated infill site that affords uninterrupted views of the Dublin Mountains and where any new development should be innovative and considerate to both its immediate neighbours and wider environment and where any new house should be of a high quality living environment for its occupants and neighbours. In my view the quality of the architectural response to this site is of primary significance in determining the acceptability of the scheme.
- 7.4.3. As documented in Section 4.0 above the Board granted outline permission in 2015 for a house and vehicular entrance at this location subject to 4 conditions. Condition No 1 granted *a single storey house with dormer elements or a split-level house on this site*. While the current application is for full planning permission and is therefore considered from first principles, it would appear that the applicant has designed the proposed dwelling in response to this condition without due regard for context. While the design adheres to the requirements of Condition No 1 in the strictest sense it has resulted in an elevational treatment and layout that is perfunctory in its treatment and execution. The resultant proposal is not acceptable.
- 7.4.4. I refer to the DLRCC Case Planners report and agree that having regard to the visually prominent position of the subject site at the main junction of the Violet Hill Roadway, that a more innovative design approach to an infill dwelling would be more appropriate in order to complement the existing adjacent properties and contribute to visual interest in the streetscape. Refusal is recommended.

7.5. Other Issues

- 7.5.1. **Drainage** – I note the report from Drainage Planning report that further information was sought in relation to surface water drainage, rainwater harvesting tank soakpit,

infiltration test on the location where the soakpit is proposed (if the test turns a negative result an alternative proposal shall be proposed) and provision of permeable hardstanding. It is recommended that any future application on this site would address these requirements.

7.5.2. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising a new detached dwelling and its distance 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.

7.5.3. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 Recommendation

It is recommended that permission be **REFUSE** for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 1) It is the policy of the Planning Authority, as set out in the current Development Plan for the area, to promote high quality design (Policy UD1: Urban Design Principles and Section 8.2.3.1 Quality Residential Design refers). This policy is considered to be reasonable. Having regard to the visually prominent location of this infill site at the main junction of the Violet Hill roadway, to the established built form and character of the area it is considered that the proposed development, would be incongruous in terms of its design, which would be out of character with the streetscape and would set an undesirable precedent for future development in this area. The

proposed development would seriously injure the visual amenities of the area, would be contrary to the stated policy of the planning authority, in relation to urban development and would, therefore, be contrary to the proper planning and sustainable development of the area

Mary Crowley

Senior Planning Inspector

29th October 2019