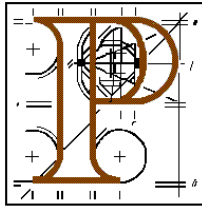


# An Bord Pleanála



## Inspector's Report

**PL06D.246734**

**DEVELOPMENT:-**

House with associated site works located within the grounds of St. Joseph Cluny School and Convent (protected structure), 27 Cluny Manor, Avondale Road, Killiney, Co. Dublin.

**PLANNING APPLICATION**

**Planning Authority:** Dun Laoghaire Rathdown County Council

**Planning Authority Reg. No:** D15A/0843

**Applicant:** Order of St Joseph of Cluny

**Application Type:** Permission

**Planning Authority Decision:** Grant

**APPEAL**

**Appellant:** John Colohan

**Type of Appeal:** 3<sup>rd</sup>-v-Grant

**DATE OF SITE INSPECTION:** 02<sup>nd</sup> September 2016

**Inspector:** Colin McBride

## **1.0 Site Location and Description**

1.1 The appeal site, which has a stated area 0.0357 hectares is located on the southern side of the Avondale Road, Killiney. Avondale Road is relatively long and undulating and stretches from its junction with Albert Road Upper to the north down to where it links with Ballinclea Road at its south. The appeal site consists of part of a housing development of 10 houses under construction and permitted under ref no. PL06D.241014 as well as part of the curtilage of Saint Joseph of Cluny convent and schools, which is located to the south east of the site. Immediate adjoining development includes a two-storey dwelling to the north west part of the permitted housing to which the site has been added to, a recently constructed hockey pitch to the south east with the school grounds and two-storey detached dwellings within the housing development of Cluny Grove that back onto the south western boundary of the site. There is existing boundary treatment between the site and Cluny Grove consisting of block wall. The hockey pitch has a 3m metal fence, but there is currently no defined boundaries to the south east or north west of the site.

## **2.0 Proposed Development**

2.1 Permission is sought for a two-storey detached four-bedroom dwelling and associated site works. The dwelling has a floor area of 138.6sqm and a ridge height of 9.133m. The development is to be an additional dwelling within a permitted residential scheme of 10 no. dwellings permitted under ref no. PL06D.241014 and currently under construction.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

3.1.1 Permission granted subject to 15 no. conditions. The conditions are standard in nature.

### **3.2 Planning Authority Reports**

- (a) Conservation Officer (27/01/16): No objection.
- (b) Drainage Planning (22/12/15): No objection subject to conditions.
- (c) Transportation Planning (17/02/16): No objection subject to conditions.
- (d) Planning report (23/02/16): Further information required including details of boundary treatment on the southern boundary relative to permitted

treatment under ref no. PL06D.250486 (adjoining hockey pitch), submit contiguous elevation showing a vehicular entrance as per the adjacent semi-detached dwellings and submit a revised landscaping scheme including the proposed dwelling.

- (e) Planning report (18/05/16): The overall design and scale of the dwelling was considered acceptable in the context of visual and residential amenity/adjoining amenity. A grant of permission was recommended subject to the conditions outlined below.

#### **4.0 Planning History**

- 4.1 PL06D.241014: Permission granted for ten houses with four new driveways; relocation of bus shelter, widening of existing entrance to provide for two-way traffic; relocation of school gate; 25 parking spaces.
- 4.2 D11A/0487: Permission refused for a 10-year permission for development on the subject site comprising: 11 No. 2-storey houses; solar panels on the roof of each house; 4 No. new driveways onto Avondale Road; widening of existing vehicular entrance on Avondale Road so as to provide for two-way traffic movement, a new access road into the proposed housing scheme and the relocation of the existing school entrance gate; 27 No. surface car parking spaces; 11 No. bin stores; and all associated and ancillary site development works and landscaping. All at a site of c. 0.57 ha at Avondale Road. The application site is located within the grounds of Saint Joseph of Cluny School & Convent (A Protected Structure).

The two reasons for refusal related to lack of public open space within the scheme; inadequate private open space; would seriously injure residential amenity; out of keeping with pattern of development in the area; uneasy relationship with No. 53 Avondale Road; injurious to visual amenity of the area and contrary to proper planning and sustainable development of the area.

- 4.3 PL06D.240586: Permission granted for a synthetic surface hockey pitch and fencing, storage shed for sports equipment, widening of existing vehicular entrance on Avondale Road so as to provide for two way traffic movement to and from the school (Ballinclea Road will continue to serve as the vehicular access to the convent only), internal roads and traffic management measures, paths, set down, car and cycle parking, relocation of pedestrian gate on Ballinclea Road and changed design to suit bicycle traffic, general site lighting, flood lighting to the pitch to be provided on 8 No. 16m high columns, new entrance signage and lighting to same, removal of some trees and replacement with new tree and shrub planting and all ancillary and associated site development and landscape works. All at a site of c.5.58 ha at Avondale

Road. The application site is located within the grounds off Saint Joseph of Cluny School & Convent (A Protected Structure).

## **5.0 Development Plan**

5.1 The relevant plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A with a stated objective 'to protect and/or improve residential amenity.'

5.2 Section 5.3.4, Policy RES4: Existing Housing Stock and Densification – it is Council policy to improve and conserve housing stock levels of the County, to densify existing built up areas and to maintain and improve residential amenities in existing residential developments.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 A third party appeal has been lodged by Bryan Burdett, 27 Cluny Grove, Killiney, Co. Dublin. The grounds of appeal are as follows...

- The proposal constitutes overdevelopment of the site with a proposal for 11 houses refused on site previously. The proposal is against the reasons for refusal and conflicts with condition 11 of PL06D.240586 (adjoining hockey pitch).
- The proposed development would be detrimental to the visual amenities of the area in particular when viewed from the existing housing development of Cluny Grove.
- The permitted development under PL06D241014 including a distance of 5.5m between the north west end of the hockey pitch and the boundary wall of no. 7 Cluny Manor and condition 11 of PL06D.240586 required planting trees in this area to replace trees lost in the construction of the hockey pitch. The proposed development requires this area to be used.
- The proposal would result in a loss of privacy to no.s 26 and 27 Cluny Grove due to overlooking.
- The appellant notes there is uncertainty regarding implementation of conditions and note that landscape proposals as part of this development are of diminished quality.

### **6.2 Planning Authority Responses**

6.2.1 Response by Dun Laoghaire Rathdown County Council.

- The Planning Authority refer to the planning reports and request that the decision to grant is upheld.

### **6.3 Other Party Responses**

#### **6.3.1 Response by O'Daly Architects on behalf of the applicants, Order of St. Joseph Cluny.**

- The proposal is part of a larger permitted development and the development in conjunction with permitted development has a density of 18.96 units per hectares, which is low by Development Plan standards and indicates that the proposal is not overdevelopment of the site.
- The proposal in terms of design, scale, and pattern of development, and separation distances would be acceptable in context of residential amenity. It is noted that landscaping proposal submitted are sufficient.
- It is noted that the landscaping originally proposed for the hockey pitch was inappropriate and that a new landscape architect was engaged and liaised with the Parks Department of the Council. The same Landscape Architect has prepared the current proposal and the such is an appropriate landscaping solution for the site.

### **7.0 Assessment**

#### **7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.**

Principle of the proposed development  
 Development control objectives  
 Residential/adjoining/visual amenity  
 Architectural Heritage  
 Other Issues

#### **7.2 Principle of the proposed development:**

**7.2.1** The proposal entails the construction of two-storey detached dwelling, which is to be part of larger residential development permitted under ref no. PL06D.241014 for 10 no. dwellings. The site comprises part of the original site subject to PL06D.241014 and a small strip of land taken from the adjoining site to the south east (the grounds of St. Joseph Cluny School and Convent). The proposed dwelling will use the permitted service road, vehicular entrance and public open space permitted for the 10 no. dwellings. The site is zoned Objective A with a stated objective 'to protect and/or improve residential amenity'. The nature and use of the proposed development is consistent with the zoning objective of the site. The proposal

for an additional dwelling would also be consistent with Policy RES4: Existing Housing Stock and Densification under which it is stated that “it is Council policy to improve and conserve housing stock levels of the County, to densify existing built up areas and to maintain and improve residential amenities in existing residential developments”. I would consider that the principle of the proposed development is acceptable.

### **7.3 Development control objectives:**

7.3.1 The proposal is for an additional dwelling within a permitted housing scheme increasing the number of dwellings from 10 to 11. The proposal for the new dwelling would give the permitted housing development a density of 18.96 units per hectare, which is a low density in the context of the minimum residential density of 35 units per hectares specified under Development Plan policy. In this regard the proposal would not be contrary development plan policy in regards to density and the increase in density would represent a better use of existing zoned and serviced land.

7.3.2 The requirements for private open space are set out under Section 8.2.8.4 with a minimum of 75sqm for a 4 bed or more dwelling. The proposal provides in excess of this level of private open space. Car parking standards are set down under Table 8.2.3 and the requirement is for 2 spaces for a three bed unit or more. In the case of the proposed development this standard is met. As noted earlier the proposal is part of a permitted residential development and will use the service road and public open space provided with such. The proposal for an additional dwelling would not compromise the development control standards in regards to public open space. The permitted development provides for an open space area to the east of the housing development. Even with an additional dwelling there is sufficient public open space to provide for the increased number of dwellings in the development.

7.3.3 The proposal provides for an additional dwelling added to the development of 10 no. dwellings permitted under ref no. PL06D.241014. As noted above the proposal meets all relevant development control standards set down under the County Development Plan and would not increase the density of development to an unacceptable level. In regards to pattern of development the proposed dwelling has adequate regard to the pattern and scale of development permitted under ref no. PL06D.241014 and fits in well into the permitted scheme. In addition, the proposal entails an increase in the size of the overall site of the housing development with a strip of land added to the south east. Having regard to these facts I would consider that the development would not be overdevelopment of the site as suggested by the appellant.

#### **7.4 Residential/adjoining/visual amenity:**

7.4.1 The appellant raises concerns regarding the proposal in relation both the visual amenities of the area and the residential amenities of adjoining properties, namely no.s 26 and 27 Cluny Grove. The appeal site is located at the southern corner of the overall housing development it is to form part of. The dwelling backs onto the rear boundaries (south western site boundary) of nos. 26 and 27. The dwelling on the appeal site has a separation distance from its rear elevation of 8.84m at ground floor level and 11.29m at first floor level. Taken in conjunction with the depth of rear gardens associated with the dwellings in Cluny Grove to the south west, I would consider that there is more than adequate separation distance between the proposed and existing development and that such a pattern of development is acceptable and common in a suburban residential area such as this. I would consider that overall scale, pattern of development, level of separation and orientation of the proposed dwelling is consistent with the prevailing suburban pattern of development and that the proposal would have no significant or adverse impact on the residential amenities of existing properties.

7.4.2 The other adjoining development to the site is the existing grounds of the Order of St. Josephs of Cluny. The immediate adjoining activity to the south east is the hockey pitch, which was permitted under PL06D.240586. I am satisfied that the overall design, scale and location of the dwelling relative to the school grounds and adjoining hockey pitch would have no significant or adverse impact on the amenities of the existing property. It is notable that the windows on the south western elevation above ground floor level (two windows) are to have opaque glazing and serve a landing and a bedroom (not the only source of light with roof lights on the rear plane).

#### **7.5 Architectural Heritage:**

7.5.1 It is notable that the site is originally part of the curtilage of a protected structure, St. Josephs School and Convent. It is notable that the site is part of the site of a previously permitted housing development under PL06D.241014 with a small piece of additional lands to be taken from the grounds of St. Josephs School and Convent. The appeal site entails an additional reduction in the curtilage of the protected structure that was already subdivided to provide for the permitted development under PL06D.241014. The housing development of 10 no. dwellings granted under PL06D.241014 was deemed to be acceptable in the context of its impact on the character and setting of a protected structure. I would consider that having regard to the scale and design of the proposal, which fits into the permitted scheme well and is consistent with its pattern and scale, that the proposed development would have no significant impact over and above that of the permitted housing development in relation to the character and setting of the protected structure.

It is notable that the Council's Conservation Officer indicated on objection to the proposal. In this regard I am satisfied that the proposal would have an acceptable impact on relation to architectural heritage.

## **7.6 Other Issues:**

- 7.6.1 The appellant has raised concerns regard the relationship of the proposed development with the development permitted under PL06d.240586 and in particular condition regarding landscaping and boundary treatment. The development permitted to the south east of overall housing development the proposal is part of, consists of a hockey pitch. The permitted hockey pitch was 9m from the south eastern boundary of the housing development with 3m high fence and landscaping to be provided. In providing for the site of the new dwelling the 9m strip of land between the hockey pitch and the south eastern limits of the permitted housing development are reduced to 2m. the appellant raises concerns regarding the fact such conflicts with the condition attached to the permission granted under PL06D.240586 and would diminish the residential amenities of adjoining dwellings due to failure to provide landscaping around the pitch as permitted under ref no. PL06D.240586, impacting adversely on the dwellings in Cluny Grove and the permitted residential development under PL06D241014. I am satisfied with the type of boundary treatment proposed relative to the hockey pitch and that landscaping proposal can still implemented at this location.
- 7.6.2 In relation to physical impact on residential amenity I would note that the proposal does alter the size of the strip of land around the permitted hockey pitch where it adjoins the permitted development under PL06D241014 and to the rear of no. 27 Cuny Grove. Notwithstanding such it does not involve any alterations to the location or proximity of the hockey pitch to existing or permitted dwellings. The proposal still provides 2m of space between the south eastern limit of the housing development (boundary of dwelling no. 7(a)) and the fencing of the hockey pitch. This is still enough to provide landscaping. I would consider that the relationship between the hockey pitch and proposed dwelling would be acceptable in the context of residential amenity and that the proposal would not result in the permitted development within the school grounds having a more pronounced or adverse impact on the residential amenity of the dwellings in Cluny Grove to the south west.
- 7.6.3 Having regard to the nature and scale of the proposed development and its 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.

## **8.0 Recommendation**



8.0 I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

9.1 Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and to the nature, form, scale and design of the proposed development, and having regard to the pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, and would be satisfactory in regards to traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars received on the 21<sup>st</sup> day of April 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The external wall and roof finishes shall match those of the housing development permitted under PL06D.241014.

**Reason:** In the interest of visual amenity.

3. All windows identified on the submitted plans as featuring obscured glazed should be fitted with such and retained with such glazing unless authorised by a future grant of permission for normal glazing.

**Reason:** In the interests of residential amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and no surface water from the proposed development/site shall be allowed to discharge onto adjoining properties or the public road.

**Reason:** In the interest of public health.

5. The site and building works required to implement the development shall be carried out only between the hours of 08.00 to 18.00 Monday to Fridays, between

08.00 to 14.00 on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of adjoining residential occupiers.

6. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

7. 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, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

Colin McBride  
12<sup>th</sup> September 2016