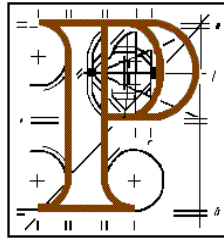


# An Bord Pleanála



## Inspector's Report

### Development

House and associated site works on a plot opposite Elm Park House and adjacent to Nos. 71 and 72 Grange Wood, Rathfarnham, Dublin 16.

### Planning Application

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Authority Register Reference: D16A/0331

Applicant: David Berber

Type of Application: Permission

Planning Authority Decision: Refuse

### Planning Appeal

Appellant(s): David Berber

Type of Appeal: First Party

Observer(s): Jonathan Smyth

Date of Site Inspection: 12<sup>th</sup> October, 2016

**Inspector: Kevin Moore**

## **1.0 APPLICATION DETAILS**

1.1 There is a first party appeal by David Berber against a decision by Dun Laoghaire-Rathdown County Council to refuse permission for the construction of a house at a plot opposite Elm Park House and adjacent to Nos. 71 and 72 Grange Wood, Rathfarnham, Dublin 16.

1.2 The proposed development would comprise a two-storey over basement detached house. The development would be a four bedroomed house, with a study at attic level and a games room with a sunken garden at basement level. The floor area of the development would be 310 square metres on a site with a stated area of 0.069 hectares. Details submitted with the application included consent from the property owner allowing the making of the application and a report on drainage. The proposal also includes the provision of access and a wayleave to an existing ESB substation.

1.3 An objection to the proposal was received from Liam and Sheila Byrne. Concerns raised related to the loss of public open space and the removal of mature trees on the site.

1.4 The reports received by the planning authority were as follows:

The Drainage Engineer sought further information on attenuation.

Irish Water had no objection subject to conditions.

The Transportation Planning Engineer requested further information on the vehicular access, on-site parking and accessibility.

The Planner noted the objection and internal reports received and the further information requests contained therein. It was acknowledged that the zoning provisions allowed residential development in principle on the site. Noting the design reflected the design of houses to the south-west, it was further acknowledged that the house was larger in scale and was on a

wider plot. It was considered the house would be visually prominent when approaching the cul-de-sac. Clarification on potential overshadowing was considered necessary. It was submitted that the site is currently in use as open space, was conditioned to be open space under Planning Permission H1043 by condition no. 4 attached with that permission, and is maintained by the County Council. It was concluded that, as the site is conditioned open space, permission cannot be granted. A refusal of permission was recommended.

- 1.5 On 5<sup>th</sup> July, 2016, Dún Laoghaire-Rathdown County Council decided to refuse permission for the development for one reason because the proposal would materially contravene a condition of Planning Permission H1043.

## **2.0 SITE DETAILS**

### **2.1 Site Inspection**

I inspected the appeal site on 12<sup>th</sup> October, 2016.

### **2.2 Site Location and Description**

The site of the proposed development consists of a public open space within Grange Wood estate in Rathfarnham, Dublin 16. It is a maintained green space on which there are a number of mature trees. There is an ESB substation at the north-western end of the site that adjoins the boundary with No. 71 Grange Wood. Two storey dwellings of varying designs are located in the immediate vicinity of the site. Elm Park House, an apartment complex, is located on the opposite side of the public road.

## 2.3 **Dun Laoghaire County Development Plan 2016-2022**

### Zoning

The site is zoned 'A' with the objective to protect and/or improve residential amenity.

## 2.4 **Planning History**

### P.A. Ref. H1043

Permission was granted in 1975 for revisions to previously approved Grange House estate development. Condition no. 4 of that permission stated:

*(4) The site Nos. 72 and 73 are to be omitted and reserved for play-lot purposes adjoining amenity open space shown on the plans submitted.*

*Reason: In the interest of amenity and in order to ensure that adequate and suitable play space area is made available for residents on completion of their dwellinghouses.*

## 3.0 **FIRST PARTY APPEAL**

3.1 The grounds of the appeal may be synthesised as follows:

- \* Condition no. 4 of Planning Permission H1043 relates to a historic permission and is not considered to align with the policies or objectives of the County Development Plan.
- \* The appeal site is not identified as a designated park or area of open space in the Council's Green Infrastructure Strategy.
- \* Planning Permission H1043 has been completed and fully implemented.

- \* The site is not subject to any legal restriction, agreement or conveyancing clause.
- \* There is nothing in the planning legislation that prevents a proposal being considered anew.
- \* The proposal is in accordance with Zoning Objective A of the Development Plan.
- \* The proposal is in accordance with Section 2 of the Development Plan in relation to policy on residential development.
- \* The proposal is in accordance with the relevant Development Management Standards of the Development Plan.

#### **4.0 PLANNING AUTHORITY'S RESPONSE TO APPEAL**

- 4.1 The planning authority submitted that the appeal did not raise any new matter that would justify a change of attitude to the proposed development.

#### **5.0 OBSERVATION**

The observer, Jonathan Smyth, raises concerns relating to the requirement to maintain the use of the site as open space in accordance with the parent permission for the Grange Wood estate, the lack of further amenity space in the estate, its importance as open space for residents, the loss of mature trees, and the design, bulk and mass of the proposal.

## **6.0 APPELLANT'S RESPONSE TO OBSERVATION**

6.1 The appellant submits that the observation does not raise any new planning matters that would undermine the grounds of appeal. The appellant's response includes correspondence from two people referring to the plot not being used for recreational purposes and for anti-social behaviour.

## **7.0 ASSESSMENT**

7.1 While I note the issue of the visual impact of the proposed development has arisen in submissions on this application, it is reasonable to consider that the main planning issue of relevance is the principle of permitting the development of a house on lands reserved for open space as part of the development of a housing estate. I will not be addressing further the issue of the compatibility or otherwise of the proposed development within its context, only to note that the design is in keeping generally with the form of development in the vicinity but that the scale of the development is notably greater than that which prevails in its immediate environs.

7.2 It is noted that it is not in dispute that the site comprises open space in use for the general public required to be maintained as open space under condition 4 of Planning Permission H1043. It, thus, forms an integral part of the development of the residential estate of Grange Wood. While acknowledging that the plot remains in private ownership, it is recognised that the local authority maintains the plot as public open space. This also is not disputed. Having regard to these observations, it can reasonably be concluded that the site comprises established public open space provided for the benefit of residents of the estate.

7.3 The proposed development would result in a significant loss of an amenity for residents, an amenity which has been determined necessary and so

designated under a previous planning permission. Over and above this, it may reasonably be concluded that to permit the proposed development would constitute a most undesirable precedent. The loss of public open space that forms an integral part of a permitted residential development would undoubtedly encourage further development of this nature in this area to the detriment of residential amenity.

Note: Having regard to the small scale of development, the nature of the receiving environment and the distance from the nearest European sites, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site'.

## **8.0 RECOMMENDATION**

I recommend that permission is refused in accordance with the following:

### **Reasons and Considerations**

The site of the proposed development forms an area of designated public open space in accordance with condition 4 of Planning Permission H1043, which forms part of the development of the residential estate of Grange Wood. It is considered that the proposed development, resulting in a significant reduction in the usable public open space serving the estate, would materially contravene condition 4 of Planning Permission H1043 governing the development of the estate and which requires the site area to be developed and maintained as public open space, would lead to a substandard form of development for the residents of the estate, and would seriously injure the residential and visual amenities of the area. The

proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Kevin Moore

Senior Planning Inspector

October, 2016.