



An  
Bord  
Pleanála

**Inspector's Report**  
**PL.27.247849**

<b>Development</b>	House, reconfiguration of existing access arrangements to provide 2 entrances and 2 driveways and associated site works.
<b>Location</b>	Whitshed Lodge, Whitshed Road, Greystones, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council.
<b>Planning Authority Reg. Ref.</b>	16/1167.
<b>Applicant</b>	Sonia Walsh & John Ryder.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellants</b>	Sonia Walsh & John Ryder.
<b>Observers</b>	<ol style="list-style-type: none"><li>1. Michael Bannon.</li><li>2. Sean O'Broin.</li><li>3. Burnaby Residents Association.</li><li>4. Aedamar O'Rourke &amp; Brian</li></ol>

Farrell.

5. Killian Garvey.

**Date of Site Inspection**

30<sup>th</sup> March 2017.

**Inspector**

Dáire McDevitt.

## **1.0 Site Location and Description**

- 1.1 The appeal site comprises part of the existing curtilage of a large detached dwelling 'Whitshed Lodge'. The site is located in the Burnaby Architectural Conservation Area to the south of Greystones town centre in County Wicklow.
- 1.2 This site is along the eastern side of Portland Road North and is accessed via a shared entrance with Whitshed Lodge off the southern side of Whitshed Road.
- 1.3 Whitshed Lodge is a detached storey and a half dwelling set in a large L-shaped site, set back from both roads that bound the site with its private open space located to the front and side of the house. The application site with a stated area of c.0.1 hectares is the side garden to the west of the Lodge.
- 1.4 The site is bounded to the south by an observer's house, Glansheskin House, a two storey dwelling, to the north by another observer's house, Anjo Lodge, a dormer bungalow. And another Observer's house, Moorelands, a Protected Structure, bounds Whitshed Lodge to the east. Portland Road North forms the western boundary where there are extensive mature trees within the site and along the roadside boundaries. There are timber gates serving the site along the Portland Road North boundary. The entrance off Whitshed Road consists of c. 2 metre high timber gates, with timber fences forming the roadside boundary.

## **2.0 Proposed Development:**

The proposed development comprises of the following:

- A two storey house with a g.f.a of c. 146sq.m and a height of c. 8.37m
- Shared entrance off Whitshed Road to serve 2 driveways consisting of:
  - Formation of a new driveway within the site of Whitshed Lodge.
  - Reconfiguration of existing driveway serving Whitshed Lodge.

- Revised side boundaries and boundary treatment within the site and along the boundary with Portland Road.
- Connection to all public services.
- Retention of all mature trees within the site which form part of the 'T14' Tree Protection Objective.
- Ancillary Site works.

### **3.0 Planning Authority Decision**

#### **3.1 Decision**

Refuse Permission for the following reason:

*The site of the proposed development is located in the Burnaby Architectural Conservation Area, a historic residential suburb developed at the turn of the 19<sup>th</sup> and 20<sup>th</sup> centuries, and considered to be of national interest. The policies and objectives of the Greystones/Delgany and Kilcoole Local Area Plan 2013 seek to protect, safeguard and enhance the special character and environmental quality of Architectural Conservation Areas and the character and appearance of the urban public domain of such areas.*

*Given the compacted site layout, it is considered that the proposal would result in a cramped and uncharacteristic pattern of development along this street, which does not reflect the traditional sylvan and spacious garden suburb pattern of the Architectural Conservation Area. Accordingly, it is considered that the proposed development would unduly impact on the character and setting of properties in the vicinity comprising large dwellings on large plots, would unduly degrade and detract from the character of The Burnaby Architectural Conservation Area, would be contrary to the provision of the Local Area Plan and the proper planning and sustainable development of the area.*

## **3.2 Planning Authority Reports**

### **3.2.1 Planning Report**

The Planner's Report forms the basis for the Planning Authority's decision.

The main issues are summarised as follows:

- Non-compliance with Land Use zoning objective as the site area should not include the second driveway which serves Whitshed Lodge and is separated from the proposed development by timber fencing and gates, therefore the overall site area is less than the required 0.1 hectares.
- Design, residential amenities and cramped form of development.
- The development is at variance with the existing pattern of development within the ACA.
- Access proposals in terms of traffic safety and design.
- No contextual elevations were submitted.
- Reference to the Municipal Engineer's comments that that sightlines are not shown properly on the layout submitted and need to be addressed. These issues did not substantiate separate reasons for refusal.

### **3.2.2 Other Technical Reports**

The Planner's Report refers to a Report by the Municipal Engineer and Irish Water. These are not on file and are not available on the Planning Authority's website for viewing.

## **3.3 Third Party Observations**

Five submissions were received by the Planning Authority. All of whom have made Observations on the current appeal. The issues raised in the submission are largely in line with the those raised in the Observations to

this appeal and shall be dealt with in more detail in the relevant section of this Report.

## **4.0 Planning History**

There is an extensive planning history associated with the application site.

**16/390.** Permission refused for a similar development and for the same reason as 16/1167.

**08/1856 (PL.06D.232528).** Refused permission for reasons relating to the size of the site (0.6 hectares) and non-compliance with the Land Use Zoning Objective and would represent a cramped form of development out of character with the Burnaby ACA.

**08/634 and 07/1193.** Both files were withdrawn after the recommendation to refuse was made on grounds of non-compliance with the land use zoning and density, traffic safety and inadequate private open space.

**03/9087.** Permission refused in 2003 for a house for reasons relating to traffic, removal of protected trees and excessive density of development.

## **5.0 Policy Context**

### **5.1 Greystones-Delgany and Kilcoole Local Area Plan 2013-2019**

#### **Land Use Zoning:**

**R10: Residential.** *To provide for the development of sustainable residential communities up to a maximum density of 10 units per hectare and to preserve and protect residential amenity.*

**Built & Natural Heritage Objectives:**

**HER1:** refers to the need to protect and enhance the character, setting and environmental quality of natural, architectural and archaeological heritage.

**HER4:** refers to the to the protection and retention of trees which contribute to the biodiversity value and the character and amenity of the area. This objective applies to the list of trees indicated in Appendix B and Map B. Objective T14 & Objective T17 have relevance to the site.

**Architectural Conservation Areas**

**Policy HER12** refers to development within Architectural Conservation Areas in accordance with Appendix B and sets out the objectives to preserve the character of Architectural Conservation Areas (ACAs). Proposals shall be considered in relation to a range of criteria and safeguards including

- *Development will be controlled in order to protect, safeguard and enhance the special character and environmental quality of ACAs.*
- *The buildings, spaces, archaeological sites, trees, views and other aspects of the environment that form an essential part of the character of an ACA will be protected.*
- *The design of any development in an ACA, including any changes of use of an existing building, shall preserve and/or enhance the character and appearance of the ACA as a whole.*

**Appendix B** refers to the Appraisal, character and development principles within The Burnaby ACA.

**5.2 Wicklow County Development Plan 2016-2022**

The policies and objectives are generally reflective of what is included in the Local Area Plan.

## **Appendix 1 General Development and Design Standards:**

### **Infill Development:**

Where opportunities arise for infill or backland type development a range of standards apply which include:

- The site / plot must be capable of being developed in accordance with the density limit set for that area in the local area or town plan, or in any case in keeping with the prevailing density of the immediate area.
- The design of a new house should complement the area. Where an area has an established unique or valuable character worthy of preservation, particular care should be taken to match the style and materials of the area.
- The re-design of access and car parking arrangements for the existing dwelling on the plot must be clearly detailed, and permission included for same where required; developments accessed from a long narrow driveway must provide for the turning of vehicles within the site.

### **Architectural Conservation Areas:**

Refers to the standards set out that all proposals for development within an ACA and that proposals shall seek to protect the historic character, existing amenities, visual setting and streetscape character of the ACA.

## **5.3 Architectural Heritage Protection: Guidelines for Planning Authorities (2011)**

### **Chapter 3. Architectural Conservation Areas.**

**Section 3.10** refers to guidance and general criteria for assessing proposals within Architectural Conservation Areas. This sets out that generally it is



preferable to minimise the visual impact of the proposed structure on its setting.

## **5.4 Natural Heritage Designations**

There are a number of European designated sites within 5km of the application site:

- Bray Head SAC (site code 000714) c.2km to the north.
- Glen of the Downes SAC (site code 000719) c.2.7km to the west.
- Murrough Wetlands SAC (site code 002249) c.3km to the south.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

The first party appeal seeks to address the reasons for refusal of permission and is summarised as follows:

- The trees along the boundary with Whitshed Road are protected under Objective T17 of the Local Area Plan, the existing entrance shall be retained and none of the trees will be impacted by the modification proposed inside the site to provide the two driveways.
- The site has a rectangular shape along Portland Row, the trees along this boundary are also protected under objective T14 of the Local Area Plan.
- There is an access to the property off Portland Road North via timber gates, apart from this the views into the garden are screened by the mature trees.
- Whitshed Lodge and the neighbouring properties are taken from the original plot of land associated with Nirvana, a large house. The site

was subdivided in the 20<sup>th</sup> century into multiple properties. OS Maps 25" (1888-1913) show the original Nirvana property containing two adjoining residences, Whitshed Lodge and Glansheskin House which was originally built c.1904. At a later stage 'Anjo Lodge' and 'Thrice' were developed. Therefore, there is a precedent for the subdivision of plots at this location.

- The character of the Burnaby ACA is distinctive due to the diversity of architectural styles, building arrangements/siting, heights, plot sizes and building materials, which do not follow any strict order but which could be generally classified as Arcadian in style. The green tree-lined streetscape represents the intrinsic character element associated with the Burnaby.
- Precedent for shared access arrangements in the area.
- The site has an area of 0.1 hectares which accords with the Land Use Zoning Objective R10 for the site which requires a density of 10 units per hectare. The proposal complies with the qualitative standards as set out in the Development Plan and the Local Area Plan in terms of private open space, internal room sizes, parking.
- The Area Planner has relied heavily on An Bord Pleanála's previous reason for refusal on this site from 2009.
- The proposal will not have a negative impact on the traditional sylvan character of Portland Road North and would not degrade and detract from the ACA character. The site is not compacted and cramped, the area accords with the minimum site/density requirements set down for the ACA. Reference to other permissions for houses in gardens in the area, for example 09/932 which relates to two houses each on a plot of 0.1 hectares with a shared access off the public road.

- The previous refusal on site had an area of 0.06 hectares, the current site has an area of 0.1 hectares, therefore has overcome the reasons for refusal. The scale of the house and its siting are also different.

## **6.2 Planning Authority Response**

None.

## **6.3 Observations**

Five Observations have been received from:

- Aedamar O'Rourke & Brian Farrell.
- Burnaby Residents Association.
- Killian Garvey.
- Michael Bannon.
- Sean O'Broin

The main issues are summarised as follows:

- The Burnaby ACA is of national importance; the proposal conflicts with the objectives underpinning The Burnaby ACA. The proposal represents a compact and uncharacteristic pattern of development in the ACA, it would unduly impact on the character and setting of properties in the vicinity and detract from the character of the ACA setting an undesirable precedent which over time would erode the character of the ACA.
- The proposal would detract from the setting of The Moorlands, a Protected Structure immediately to the east of Whitshed Lodge.
- History of refusals of permission for a house on the site going back to 2003. One of the primary reasons for the An Bord Pleanála (PL.27.232528) refusal on the site was the size of the subject site (0.06ha), the proposal has an area of 0.1ha which complies with the

zoning, the proposal does not comply with R10 as it does not preserve and protect residential amenity. Permission has been historically refused on residential amenity grounds and not solely on the size of the site.

- The proposal is very similar to the Ref. 16/390, the current application has not been modified to such an extent to warrant a reversal of this refusal of permission.
- The proposal would be injurious to the residential amenity currently enjoyed by existing dwellings in the area, the insufficient setback distances from adjoining properties would result in a cramped, overbearing and wholly unsuitable form of development for the Burnaby ACA.
- Unacceptable overlooking, overshadowing and overbearing impact on adjoining properties due to set back distances and difference in ground levels. No shadow analysis has been submitted and Anjo Lodge in particular would be affected.
- Concerns for the protection of the trees during construction phase and the impact on soil movements resulting in the need for pile foundations or another form of aggressive engineering solutions.
- Lack of clarity regarding if the unauthorised entrance off Portland Road North would be used or closed permanently.
- No surface water drainage details have been submitted.
- Misleading site calculations submitted and the site boundaries include part of the public footpath and adjoining lands which have increased the site to 0.1ha.
- Requirement for a Construction Management Plan.

- Invalid application submitted to the Planning Authority as no contextual elevation were submitted and letter of consent from Wicklow County Council for the inclusion of the public footpath on the site boundaries.

#### **6.4 Prescribed Bodies**

None.

### **7.0 Assessment**

7.1.1 Permission was refused in 2009 under PL.27.232528 for a similar development to that currently before the Board. The reason for refusal was on the basis that the site area (0.6 hectares) represented a cramped form of development which would be out of character with the existing development in the area and detract from the character of The Burnaby Architectural Conservation Area. The current proposal in an attempt to overcome the reason for refusal includes is a revised house design, access proposed off Whitshed Road instead of directly off Portland Road North and an increase in the site area from c.0.06 to c.0.1 hectares.

7.1.2 The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Design & Architectural Heritage.
- Other Issues
- Appropriate Assessment.

### **7.2 Design & Architectural Heritage**

7.2.1 The Land Use Zoning Objective R10 for the application site seeks to provide for the development of sustainable residential communities up to a maximum

density of 10 units per hectare and to preserve and protect residential amenity.

- 7.2.2 The landholding associated with Whitshed Lodge outlined in blue in the plans submitted with the application has a stated area of c.0.2 hectares. However, the driveways to serve both the new and existing dwelling have been included in the site area for the new dwelling in order to achieve an application site area of c.0.1 hectares. The observers also noted that part of the public footpath along Whitshed Road and Portland Road North have been incorporated into the site to achieve the 0.1 hectare area. This has implications for the character for the Architectural Conservation Area as assessed below.
- 7.2.3 The Planning Authority's reason for refusal referred to the cramped and uncharacteristic pattern of development which does not reflect the pattern of development of the Architectural Conservation Area. It was considered that the proposal would unduly impact on the character and setting of properties in the vicinity comprising large dwellings on large plots and would unduly degrade and detract from the character of the ACA.
- 7.2.4 The site is located within the Burnaby ACA within the curtilage of Whitshed Lodge which adjoins Moorelands, a Protected Structure to the east. Policy HER12 of the Local Area Plan outlines that all development within an ACA should be site specific and take account of their context, the design should preserve and or enhance the appearance of the ACA as a whole.
- 7.2.5 The Burnaby ACA, a historic residential suburb of national interest, represents the emergence of low density garden suburbs at the turn of the 19th and 20th centuries. The range of architectural styles within The Burnaby is diverse and the arrangement of dwellings on the large plots does not follow any strict order. The streets are laid out as a grid with large plot

sizes which vary considerably from 0.2 to 0.8 hectares. This is reflected in the Land Use Zoning Objective R10 attached to the area.

- 7.2.6 The main difference between the current application and that refused by An Bord Pleanála in 2009 (PL.27.232528) is a revised house design, access proposed off Whitshed Road instead of directly off Portland Road North and an increase in the site area from c.0.06 to c.0.1 hectares. The dwelling is however located on a similar footprint and location to the previous proposal.
- 7.1.7 The siting of the proposed development with the rear of the house addressing Portland Road North results in the rear private amenity space fronting onto Portland Road North and its building line projecting beyond the front building lines of Anjo Lodge and Glansheskin, which front onto Portland Road North. Furthermore, the scale of the proposal has not been significantly altered from that previously refused on site. This results in a cramped and uncharacteristic pattern of development which does not reflect the established pattern of development of the Architectural Conservation Area and is contrary to objective HER12 of the Development Plan.
- 7.1.8 The applicant has attempted to address the sensitivities and constraints of the site through the use of a design that seeks to replicate the Arcadia style of houses within the ACA. In principle the design is considered acceptable subject to minor modifications as it reflects the design of existing houses in the area.
- 7.1.9 The proposed dwelling is located c. 25 metres from the site boundary with Moorlands, a Protected Structure. Given this separation distance and the extensive screening provided by the tree belt along the common boundary I am satisfied that the proposed development would have no significant impact on the character and setting of the Protected Structure.

## **7.2 Other Issues**

- 7.2.1 The Observers have raised concerns that the proposed development would be overbearing and have a detrimental impact on the residential amenities of Anjo Lodge and Glansheskin due to the differences in ground levels, resulting in overlooking of Glansheskin and overshadowing of Anjo Lodge.
- 7.2.2 The boundary treatment between both properties and the application site lends itself to a degree of overlooking from the site into their gardens. However, I am satisfied that overlooking at ground level would not increase from that currently experienced on site. A rooflight is proposed at first floor level facing Anjo Lodge and no windows facing Glansheskin, therefore, overlooking from first floor windows is not considered material. No shadow projections have been submitted, however, having regard to the orientation of the site I do not consider that overshadowing would increase substantially from that currently experienced due to the extent of mature trees on site.
- 7.2.3 The Observers have raised concerns that the proposed development might lead to the damage or removal of some of the trees which would be contrary to Tree Preservation Objectives T14 (Portland Road) and T17 (Whitshed Road) set out in the Local Area Plan and also detract from the character of the streetscape within the ACA. The applicant has outlined the proposed driveway reconfiguration will not have an impact on the trees along the roadside boundary of the site which are the subject of Objective T17 as no changes are proposed to the access off the road and, therefore, will have an undue impact on the character of the area.
- 7.2.4 The Observers have also raised concerns in relation to surface water and foul sewer drainage, I am satisfied that this is an issue that could be resolved by condition in the event of a grant of permission.



7.2.5 The Observers raised the inclusion of land outside the control of the applicants within the application site boundaries and submitted that the applicant's ownership does not extend to the road. This appears to refer to the inclusion of the public road within the site boundaries and that of an adjoining landowner. The encroachment on third party lands is a civil matter, I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads '*A person shall not be entitled solely by reason of a permission under this section to carry out development*'.

### **7.3 Appropriate Assessment**

7.3.1 Having regard to the nature of the proposed development and the location of the site in a fully serviced built up suburban area, 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**

9.0 I recommend therefore that planning permission be refused for the reasons and considerations set out below

### **10.0 Reasons and Considerations**

1. The site of the proposed development is located within "The Burnaby", which is a low density area of historical and architectural interest, composed mainly of large, family style homes on generous sites and is a designated Architectural Conservation Area, as set out in the Local Area Plan for Greystones/Delgany. It is the land use zoning objective of the planning authority, as set out in the Local Area Plan, to preserve and improve residential amenity and permit new development at a maximum

density of 10 units per hectare. It is considered that the proposed development would be out of character with the existing pattern of development in the area, would represent a cramped form of development in The Burnaby Architectural Conservation Area, would conflict with the objectives of the planning authority for the area and would, therefore, be contrary to the proper. Furthermore, it is considered that the siting and scale of the proposal results in an overbearing form of development that would be contrary Objective HER12 of the Greystones-Delgany and Kilcoole Local Area Plan 2019. The proposal would, therefore, seriously injure the character of the area and be contrary to the proper planning and sustainable development of the area.

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Dáire McDevitt  
Planning Inspector

18<sup>th</sup> April 2017