



An  
Bord  
Pleanála

## Inspector's Report PL06F.248103

---

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Extension and alterations to dwelling                       |
| <b>Location</b>                     | Glenlion Lodge, Thormanby Road,<br>Baily, Howth, Dublin 13. |
| <b>Planning Authority</b>           | Fingal County Council                                       |
| <b>Planning Authority Reg. Ref.</b> | F16B/0226   |
| <b>Applicants</b>                   | Sarah Philips & Ian Robertson                               |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant subject to conditions                                 |
| <b>Type of Appeal</b>               | 3 <sup>rd</sup> Party v. Grant                              |
| <b>Appellants</b>                   | 1. Eamonn Prenter<br>2. Patrick O'Sullivan                  |
| <b>Observers</b>                    | None  |
| <b>Date of Site Inspection</b>      | 27/04/17  |
| <b>Inspector</b>                    | Pauline Fitzpatrick   |

## 1.0 Site Location and Description

- 1.1. The subject dwelling, Glenlion lodge, constitutes a former gate lodge located at the entrance to a private road that descends from Thormanby Road to Glenlion House and is c. 2.5km to the south of Howth town centre. The private gated road also serves another dwelling located inbetween the appeal site and Glenlion House. Mature trees and planting bound the site. The site has a stated area of 0.0328 hectares.
- 1.2. The single storey, 2 bedroom lodge is bounded directly by the private access road to the rear, side and front with a hedge to the rear (south-western) elevation of the dwelling separating same from the access. Views to the south-west are available. There is a small garage structure on the other side of the access directly abutting the roadside boundary wall. The dwelling is served by a septic tank on lands c.50 metres to the south.
- 1.3. A two storey dwelling (Carnalea) bounds the site to the west with the shared boundary delineated by a hedge and fence. A two storey dwelling (Deepwater) bounds the site to the east with mature trees and hedging inbetween. The lands to the north of Thormanby Road are elevated over the road with dwellings on both sides of the road of varying designs and sizes.

## 2.0 Proposed Development

- 2.1. The application was lodged with the planning authority (PA) on the 31/08/16 with further plans and details submitted 10/01/17 following a request for further information (FI) dated 20/10/16.
- 2.2. As amended the proposal entails alterations and extension to the existing dwelling including provision of 1<sup>st</sup> floor bedroom accommodation. Alterations to the elevation treatments include extensive glazing to the south-west elevation to avail of the views available. The floor space is to be increased from 78 sq.m. to 150 sq.m. with an increase in the footprint of the dwelling from 78 sq.m. to 115 sq.m.

- 2.3. The existing garage is to be demolished and replaced with a plinth to facilitate one parking space. A further parking space is proposed immediately adjoining the dwelling. A retaining wall is to be constructed to facilitate same.
- 2.4. The application is accompanied by a Percolation Test Report and Arboricultural Report.
- 2.5. By way of further information details of a new proprietary effluent treatment system to replace that existing are provided.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Grant permission subject to 12 conditions. Of note:

*Condition 3 (a):* the permission authorises a two bedroom dwelling only. Bedroom No.1 as shown on drawing no. F1-04 submitted as FI shall be used solely for storage purposes.

*(b):* de-exemption of Classes 1 and 3.

*(c):* the proposed wastewater treatment system shall be omitted.

Condition 4: Maintenance contract for the existing wastewater treatment system and evidence of ongoing maintenance.

*Condition 5:* Surface water drainage proposals including SuDs to be in accordance with the Greater Dublin Drainage Study, Regional Drainage Policies.

*Condition 6 (a):* Tree bond

*(b)* protection measures for trees to be retained.

*(c)* hedgerow to be planted along western (side) boundary to comprise of native species.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The *1<sup>st</sup> Planning Officer's* report dated 12/10/15 notes that the proposed extension is higher over a much greater width than the previously granted extension under ref. F98A/0821. The proposal does not have adequate regard to the protection of views along Thormanby Road and it will be highly visible from same. The reduction in the height of the extension along the width of the dwelling to reduce the visual impact is required. The proposal will not result in direct overlooking of Carnalea. Oblique views will be available. A reduction in the glazing of the upper floor is required. Given an extension to the existing dwelling is proposed the development plan requirement of 60 sqm. of private open space cannot reasonably be applied. The open space to be provided is considered acceptable. A tree survey is required. The requirements of the Water Services and Transportation Planning sections in terms of the septic tank serving the site are noted. Reference is made to a report from Parks Section which requires an arboricultural assessment. A request for FI is recommended.

The *2<sup>nd</sup> report* dated 02/02/17 following FI notes that the revised proposal reduces the ridgeline and width of the dwelling such that when viewed from Thormanby Road the proposal will be adequately stepped down in height to avoid significant visual impacts on views. The 1.2 metre high glass railing to the bi-fold window in the upper floor bedroom should be opaque glazing to further limit views to neighbouring properties. Given the proposed separation distances, the reduction in oblique views to Carnalea and the screening provided by the opaque railing, the proposal will not result in a significant degree of overlooking and is considered to be acceptable. The parking provisions are acceptable. The Council's Parks and Green Infrastructure Section has reviewed the proposal and considers that the beech trees to be removed will result in a loss of amenity and value to the site however it is also recognised that the trees are not well located for healthy growth even if the dwelling remains unaltered. The removal of the trees is acceptable subject to suitable replacement. The existing and proposed wastewater treatment systems are located outside the red line boundary of the site. Landowner consent has not been provided. In this regard the loading generated by the additional bedroom cannot be sufficiently serviced and the potential for a public health hazard would be increased. A condition requiring the use of the ground floor bedroom no. 1 to use as study/living area is recommended. The existing septic tank should be retained and the proposed

wastewater treatment system omitted. A grant of permission subject to conditions is recommended.

### 3.2.2. Other Technical Reports

The *1<sup>st</sup> Transportation Planning Section* report dated 30/09/16 requires FI on provision of two parking spaces. Reference is made in the 2<sup>nd</sup> Planning Officer's report to the department having no objection following the FI.

The *1<sup>st</sup> report* from the *Water Services Section* dated 05/10/16 requires FI on the existing septic tank and percolation area serving the site and its capability of accommodating the additional loading. The *2<sup>nd</sup> report* dated 16/01/17 following FI has no objection subject to conditions

### 3.3. Prescribed Bodies

*Irish Water* in a report dated 21/01/17 has no objection subject to conditions.

### 3.4. Third Party Observations

Submissions received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those set out in the 3<sup>rd</sup> Party appeals summarised in section 6.1 below. In addition a submission made reference to the maintenance of the trees and hedges in the vicinity of the site

## 4.0 Planning History

**F98B/0821** – permission granted in 1999 for extension to the dwelling including first floor accommodation with a ridge line of 6.7 metres.

**F16A/0225** – permission granted for demolition of Carnalea (2 storey house adjacent) and its replacement.

## 5.0 Policy Context

### 5.1. Development Plan

Since the lodgement and assessment of the application by the PA the new Fingal County Development Plan 2017 has been adopted and came into effect on 16/03/17

The zoning objective for the area remains unchanged namely RS – to provide for residential development and protect and improve residential amenity.

Views along Thormanby Road in the vicinity of the site are listed for protection.

There are also specific objectives to preserve trees and woodlands to the south of the site.

The site is within the Special Amenity Area Order within an area described as 'Residential Area'.

The objective for the area is to protect residential amenity, to protect and enhance the attractive and distinctive landscape character of these area and to ensure that development does not reduce the landscape and environmental quality of adjacent natural, semi-natural and open areas.

### 5.2. Natural Heritage Designations

The site is c.185 metres to the north of Howth Head SAC (site code 00202).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

2 no. 3<sup>rd</sup> Party appeals refer.

#### 6.1.1. Eamonn Prenter of Cunnane Stratton Reynolds

The grounds of appeal can be summarised as follows:

- The proposal constitutes overdevelopment of the site. The amenity space is inadequate both in terms of quantity and quality. The current standards should be considered. There is inadequate space for parking. The

proposed parking spaces will be unusable and the manoeuvring required on the shared driveway will cause a hazard.

- Condition 3 of the PA's notification of decision is unenforceable. The suggestion that a 20 sq.m. bedroom be used as a storage area is unrealistic.
- The improvements to the effluent treatment system cannot be carried out as it would involve works on lands not in the applicants' ownership. This would appear to be the reason for the PA's condition 3 in that the additional loading from an additional bedroom cannot be sufficiently serviced.
- The proposal would set an undesirable precedent within the Howth SAAO.
- The proposal compromises the protected views from the road. It is not just views of the sea that are protected. The stands of specimen trees to the south are the subject of a specific objective and form a significant element in the landscape as does the distinct incline from north to south. No visual impact assessment was submitted with the application.
- The tree survey submitted is inadequate

#### 6.1.2. **Patrick O'Sullivan (submission by Hughes Planning and Development Consultants)**

- The proposal would have an adverse impact on the amenities of the appellant's property, Carnalea, to the west of the site. It would give rise to overlooking and loss of privacy. The level of overlooking would be substantially increased from that existing. It would be overbearing arising from the dominant nature of the structure proposed. The proposal would therefore contravene the zoning objective for the area
- The assessment of the application by the PA differs significantly from its assessment of the proposed replacement dwelling on his site under ref. F16A/0225.
- The proposal constitutes overdevelopment. The proposed dwelling with 210 sq.m. floorspace represents a 269% increase from 78 sq.m. which is an exceptional deviation from the current plot ratio on the site.

- Open space provision is insufficient which would provide poor residential amenity and would be out of character in the area.
- The parking spaces are considered impractical and will require considerable manoeuvring which could cause a hazard along the driveway and at the entrance.
- Insufficient information has been provided to guarantee that appropriate waste water treatment can be implemented. The treatment system is outside the applicant's site. The application is considered premature pending a letter of consent from the site owner. Currently Glenlion Lodge and Glenlion Pines share the existing septic tank. No details are provided as to accommodation of Glenlion Pines should the existing system be replaced.
- As a consequence of condition 3 attached to the PA's decision precluding the 3<sup>rd</sup> bedroom the substantial increase in the size of the dwelling seems inappropriate and should be refused.
- The proposal would impact on protected views from Thormanby Road in a highly sensitive landscape. No visual impact assessment has been submitted
- The tree survey is considered inadequate.
- The proposal would set an undesirable precedent.
- The proposal would contravene the zoning objective for the area and contravenes the design guidelines for the SAAO.
- There is no assessment of impact on designated European Sites.

## 6.2. Applicant Response

The submission by Simon Clear & Associates on behalf of the applicants can be summarised as follows:

- The existing garage forms part of the roadside boundary wall and its roof restricts views towards the coastline. The removal of the garage and the development of a plinth to accommodate parking will open views. The proposed extension will not restrict these improved views.



- The proposed development is lower in height than that previously permitted on the site.
- The permitted plans for Carnalea under ref. F16A/0225 eliminates the wide driveway and reduces the distance between the dwellings. The replacement dwelling has a floor area in excess of 800 sq.m.
- The applicants would not be opposed to a condition requiring opaque glazing to the glass barrier to the 1<sup>st</sup> floor window.
- In terms of ridge heights the maximum height at Glenlion Lodge of 84.675 is a single ridge-point at right angles to Thormanby Road. The gable presentation at Glenlion Lodge will not restrict the glimpse views to Dublin Bay that will be available through the copse of mature trees.
- In any suburban situation there is an amount of mutual parallel overlooking across rear gardens. It is not normal that all inter-looking must be eliminated in a suburban situation. Drawings provided show that the two storey extension being located close to the party boundary means that the views towards the rear patio of the new house at Carnalea are blocked by the house itself. There would be limited impact on its privacy.
- The contiguous elevation in the grounds of appeal indicates that Glenlion Lodge is the lowest and least invasive building in this location. It would remain, by a considerable degree, the smallest residence in the locality. It would not be overbearing or dominant in relation to other properties.
- The footprint of the dwelling on the side adjoining the private road is unaffected with that part of the lodge being retained.
- Certain rights, privileges and duties have been incorporated into the Deeds associated with the properties along the private road. In terms of the appeal property there is a right of way over the avenue, a right to drain into the septic tank located lower down the hill and to dig up and excavate for the inspection, repair and maintenance and replacement of the pipes to and the tank, or any part thereof, and for emptying and cleaning the tank. There are also rights and duties relating to domestic oil pipes, water and service pipes. An extract from the Title Deeds is attached in support. These legal contractual rights to

use, access, maintain, repair, replace are not planning issues. The septic tank is a structure for planning purposes and there is a right under the provisions of Section 4(1)(h) of the Planning Act to maintain, repair and/or replace this structure as exempted development.

- 65.62 sq.m. of private open space is provided in the southern terraced area.
- The trees along the south-western boundary are not considered viable and are not protected. A condition attached to the permission require the planting of a hedge.
- The vicinity of the site along Thornmanby Road has experienced significant new development and redevelopment. The proposal would not act as a precedent in this locality.
- The eventual depth of the parking bay will be c.4.8m. The applicant has been parking, with consent, in front of the garage (a combined depth of c.9.3 metres) for 3 years without any obstruction to the common roadway.
- The proposed development will have minimal impact on adjoining properties and therefore accords with the RS zoning objective for the area.
- The existence of the SAAO does not prevent redevelopment.

### **6.3. Planning Authority Response**

It has reviewed the new Development Plan and is satisfied that no significant changes have occurred in the development objectives for the site. The proposal will not detract significantly from the special character of the Howth SAAO or have significant adverse impacts on public health, residential amenity and protected views subject to compliance with conditions.

### **6.4. Observations**

None

## 7.0 Assessment

- 7.1. I consider that the issues arising in the case relate to the impact the proposed works would have on the amenities of adjoining property and of the area which is within the Howth SAAO. The site is zoned residential. Whilst extensions and alterations to the existing dwelling are acceptable in principle in such a zone there is an obligation to reconcile the need to meet the requirements of the applicants seeking to maximise accommodation with the need to protect the residential amenities of adjoining properties whilst maintaining the visual amenities, scale and architectural character of the parent building and wider area.
- 7.2. Whilst reference is made to permission granted for an extension to the dwelling in 1999 under ref. F98B/0821 I submit that in view of the time that has elapsed the current proposal must be assessed on its merits with due cognisance to the policies and objectives of the development plan that now pertains.
- 7.3. The dwelling to which the appeal refers originally constituted the gate lodge of Glenlion House and is served by the private gated driveway from Thormanby Road. The said driveway serves two dwelling further downslope. The site is somewhat unusual in that it comprises of the footprint and immediate curtilage of the dwelling and the small garage structure on the opposite side of the driveway. The septic tank is located downslope on lands not within the red boundary line of the application site but over which the applicants have the respective legal easements, evidence of which are provided in support of the appeal response.
- 7.4. By reason of its existing fenestration to the south-west elevation availing of the views of the sea there are already views from the windows and patio area towards Mr. O'Sullivan's dwelling to the south-west. I note that Mr. O'Sullivan has secured permission for a replacement dwelling which will entail a building line closer to the shared boundary with the applicants and to which due regard is had in the application drawings. File reference F16A/0225 refers.
- 7.5. The proposed works to the dwelling, as amended by way of further information, entail an increase in floor area from 78 sqm. to 150 sq.m. with the building line to be set back 2.2 metres from the shared boundary with Mr. O'Sullivan's property which is delineated by a hedge and fencing. Extensive glazing is proposed to the south-west elevation including double height glazing to the central living space. As per the

plans permitted on the appellant's site his replacement dwelling will have a setback of in the region of 2.5 metres at its closet point.

- 7.6. I submit that the substantive concerns pertain to the 1<sup>st</sup> floor bedroom accommodation and increase in height and alterations to the roof profile. 1 no. bedroom is proposed at 1<sup>st</sup> floor level which will avail of large window openings in the south-west elevation which would also avail of the views of the sea. I would concur with the agent for the applicants that in such a suburban situation there is an amount of mutual parallel overlooking as in the existing situation between the sites with oblique views being available. I do not consider that the addition of the two storey extension located close to the party boundary means that there would be a material increase in overlooking over that already experienced as to have an adverse impact on the appellant's privacy or residential amenities. The recommendation made in the Planning Officer's report, but not advanced by way of condition in terms of opaque glazing to the glass barrier feature, would assist in reducing any such impact. I note that the applicants are amenable to such a requirement should the Board see fit.
- 7.7. I note that trees in the vicinity of this boundary will be removed to facilitate the development. As per the Arborist's report the viability of the trees is questionable whether or not the dwelling is extended and they are not subject of a development plan objective seeking their retention. A condition requiring the planting of a hedgerow comparable to that attached to the planning authority's decision is considered appropriate.
- 7.8. I note that the increase in the ridge to 84.675 is only marginally greater than that of the replacement dwelling permitted on Mr. O'Sullivan's site at 84.585. The ridge height of his existing dwelling is 83.28. I do not consider that the said increase across only part of the dwelling would give rise to a structure which would be considered to be dominant or overbearing relative to the appellant's existing or permitted dwelling.
- 7.9. I would concur with the planning authority that the respective application of development plan requirements in terms of private open space is not a reasonable requirement in this instance. The private open space serving the dwelling is effectively the patio area to the south which has an approx. area of 64 sq.m. and is

considered acceptable. The provision for two parking spaces off the private driveway is also considered reasonable.

- 7.10. The dwelling is currently served by a septic tank on lands c. 50 metres to the south which are not within the site boundary to which the application refers. By way of further information proposals for its replacement with a proprietary treatment system are detailed. The planning officer in the assessment of the case concluded that in the absence of consent from the relevant landowner to carry out the works that the additional loading arising from the additional bedroom cannot be accommodated by the existing system without undue risk to public health. A condition has been attached by the planning authority permitting a 2 bedroom dwelling, only, with the use of bedroom 1 at ground floor level to be limited to storage use. The applicants in response to the appeals have provided evidence of the necessary easements to access, maintain and repair the septic tank and pipes along the driveway. In addition the agent for the applicants contends that the septic tank is a structure for planning purposes and there is a right under the provisions of Section 4(1)(h) of the Planning Act to maintain, repair and or replace this structure as exempted development.
- 7.11. I submit that there is an established house with an established effluent disposal system. The applicant has provided sufficient evidence to support their assertion that they have the necessary rights and control over the system. The system serves the established needs of a family that are residing at the dwelling. While the additional bedroom could potentially increase the loading on the disposal system the applicants are in the position to undertake the necessary works to carry out any upgrade. On this basis, therefore, I have no objection to the dwelling providing for three bedrooms. As the proposed proprietary effluent treatment system is not within the red line boundary to which the application refers a condition clarifying that the consent of permission does not extend to same is recommended in the interests of clarity.
- 7.12. In terms of the impact on protected views across the site the building as it exists sits below Thormanby Road with its higher central roof projecting up above the roadside boundary wall. There is a mature tree between the building and the road and a group of mature trees to the south. As such the only views that available are over the top of the garage which is to be removed as part of the development and as such

the view as existing will be maintained. The first floor extension and increase in ridge height of the dwelling will have no impact. Concurrently in view of the extensive development in the vicinity and the nature and scale of other dwellings, notably those in the immediate vicinity, the proposed works to the dwelling would not have any adverse impact on the prevailing amenities of the area in terms of its SAAO designation.

#### *AA- Screening*

- 7.13. Having regard to the location of the site and the nature and scale of the proposed development 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**

- 8.1. I recommend that permission for the above described development be granted for the following reasons and considerations, subject to conditions

## **9.0 Reasons and Considerations**

Having regard to the nature, scale and design of the proposed extension, to the residential zoning of the site as set out in the current development plan for the area and to the character of the general area, 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 or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of 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, as amended by the further plans and particulars submitted on the 10<sup>th</sup> day of January 2017,

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 out in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. The development to which this permission refers is the extension of the dwelling and parking provision, only, and does not refer to the provision of a proprietary effluent treatment plant as detailed in the plans and particulars received by the planning authority on the 10<sup>th</sup> day of January, 2017.

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

3. Obscure glazing shall be used in the glass barrier detail to the window opening serving the first floor bedroom on the south-west (rear) elevation as delineated on drawing no. FI-05 Rev.B received by the planning authority on the 10<sup>th</sup> day of January, 2017.

**Reason:** In the interest of protecting the residential amenities of adjoining property

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

5. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of

of the dwellinghouse without a prior grant of planning permission.

**Reason:** In the interest of residential amenity and to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) The measures to be put in place during the construction period for the protection of the existing trees, hedgerows and shrubs to be retained in accordance with the details provided on Drawing No. AiA-12-16 received by planning authority on the 10<sup>th</sup> day of January, 2017 of these landscape features

- (b) Details of the proposed hedgerow to be planted along the western site boundary which shall comprise of native species.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

7. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.



**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining public road is kept clear of debris, soil and other material, and if the need arises for cleaning works to be carried out on the adjoining public road, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.

9. 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 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.

---

**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**May, 2017**